

STATE OF NORTH CAROLINA *
*
*
COUNTY OF NEW HANOVER *

AMENDED
DECLARATION OF RESTRICTIONS
OF CAROLINA SANDS, SECTIONS 1 and 2

KNOW ALL MEN BY THESE PRESENTS, THAT WHEREAS by written instrument dated September 22, 1997, and recorded on September 30, 1997, in Book 2246, at Page 856, of the New Hanover County Registry, Carolina Sands Owner's Association recorded a document entitled Amended and Restated Declaration of Restrictions of Carolina Sands, Sections 1 and 2; said Amended and Restated Declaration of Restrictions were amended by instrument recorded in Book 3173 at Page 148 and the By-Laws were amended by instrument recorded in Book 3955 at Page 623;and

WHEREAS, all of the owners of lots in Carolina Sands Subdivision are members of the Carolina Sands Owner's Association ("the Association"); and at a special meeting of the members of Carolina Sands Owner's Association, all those attending being owners of lots in Carolina Sands Subdivision, said meeting being pursuant to a notice duly mailed to the lot owners and a proxy being mailed with said notice; and

WHEREAS, it is the desire of CAROLINA SANDS OWNERS ASSOCIATION, INC. to amend Declaration of Restrictions of Carolina Sands Subdivision, Sections 1 and 2; and

WHEREAS, the President and Secretary of the Association counted and confirmed the proxies returned by members of the Association, the same being lot owners of Carolina Sands Subdivision, and to tally the vote of the members both present and by proxy; and

WHEREAS, the Secretary of the Association has certified by affidavit that the owners of the lots designated in Exhibit A, were members of the Association and also lot owners in Carolina Sands Subdivision, were mailed a notice of the meeting and a proxy and has further certified to the attendance at the special meeting; and

WHEREAS, Paragraph 24 of the Amended and Restated Declaration of Restrictions of Carolina Sands, Sections 1 and 2, provides "These restrictions may be amended by vote of the owners of 2/3 of the lots or of their submitted proxies. If a proxy is not submitted, and the owner is not present when a vote is taken, the Board of Directors shall have the right to cast the absent owner's vote along with the majority of members represented either in person or by proxy"; and

WHEREAS, a mail out ballot was submitted to the members, and after the board having voted on behalf of those owners not submitting a proxy, a two-thirds majority of the lot owners in Carolina Sands Subdivision, being members of the Carolina Sands Owner's Association, authorized

and directed the Association to represent the said lot owners in the securing and affecting of an

amendment to the Declaration of Restrictions for Carolina Sands Sections 1 and 2 as hereinabove set forth; and

WHEREAS, by a two-thirds majority vote, at a meeting of the directors of the Association, the same being a regularly scheduled meeting of the directors, there was adopted a resolution on the 11th day of April, 2011 by the Board of Directors, to amend the Declaration of Restrictions for Carolina Sands, Sections 1 and 2 and acting and in behalf of the members of the Carolina Sands Owner's Association and of the lot owners of Carolina Sands Subdivision.

NOW, THEREFORE, acting on behalf of the Association and the owners of at least a two-thirds majority of the lots in Carolina Sands Subdivision the Association hereby adopts the following restrictions as the same relates to Sections 1 and 2, Carolina Sands, as the same is shown upon a map thereof recorded in Map Book 21, Page 13 and Map Book 21, Page 14, respectively, of the New Hanover County Registry; the undersigned does hereby covenant, agree and declare to and with all persons, firms, corporation now owning and hereafter acquiring any property in CAROLINA SANDS SUBDIVISIONS, SECTIONS 1 and 2, that all the lots in said subdivision as shown on the maps recorded in Map Book 21, Pages 13 and 14, respectively, of the New Hanover County Registry, hereby amend the restrictions, as follows:

1. All lots in said subdivision shall be used for residential purposes only, and may only be used for the construction of single family residences.
2. No single family residence may be smaller than 1,200 square feet, when measured by exterior brick work. This shall be exclusive of porches, steps, walks, garages, carports, storage areas, etc. No structure shall be erected, altered, or placed in said subdivision exceeding two and one half, (2 ½), stories in height above floor or piling level. One accessory building, which may include a detached private garage but not private garage apartments may be added, provided, that such buildings are not used for any activity normally conducted as a business. Any such buildings shall be constructed of similar materials and designed as the main structure upon such lot. No accessory buildings shall be constructed prior to the construction of the main building on any lot and shall be approved as provided in paragraph 10 below. No dwelling shall be above ground more than thirty five (35) feet at the apex.
3. No unfinished *concrete block*, *concrete brick*, *cinder block* or *aluminum siding* shall be used for the exterior of any residence constructed on any lot nor shall composition tar paper on the exterior of the dwelling be permitted.
4. Building codes and regulations shall follow the Town of Carolina Beach ordinances with the following exceptions:
 - A. Maximum height of a structure 35' from the ground to apex.
 - B. No fences or walls may be placed closer to the curb than the existing structure.
 - C. No chain link or wire fences of any nature are permitted.
 - D. Since Carolina Sands is a significantly developed community, each block has a established front setback. No new dwelling or structure of any type may be placed

forward of that point regardless of town codes. The same restrictions would apply to corner lots.

Additional modifications or exceptions may be added as deemed necessary. It will be the homeowners' responsibility to obtain current guidelines from the Carolina Sands Architectural Committee. On corner lots, the side having the least frontage shall be considered the front line of said lot.

- 5. No house trailer, mobile home, tent, shack or temporary structure of any nature shall be located on any lot or used at any time as a residence.**
- 6. No advertising signs or billboards shall be erected on any lot or displayed to the public on any lot, subject to these Restrictions, except that one sign of not more than five square feet in area may be used to advertise a dwelling or lot for sale. Contractor signs may be displayed on property for the duration of the project and must be removed immediately upon completion.**
- 7. Houses built in any fashion other than conventional on-site stick built construction will be considered for approval on an individual basis. The architectural committee must be notified of this modification in advance, and final approval will be at the sole discretion of the Board of Directors.**
- 8. No buildings, fence, wall, or other structure shall be erected, placed or altered on any lot, until the proposed building plans, specifications or exterior finishes site plan location of such building or structure and construction schedule be presented to and reviewed by the architectural committee of the Carolina Sands Association.**

Final refusal or approval of any such plans, location or specifications are determined by a majority vote of the Board of Directors. Approval or disapproval may be based on any ground, including purely aesthetic, environmental or safety considerations at the sole discretion of the Board of Directors. Such determinations will be documented in the board minutes.
- 9. No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling, except that dogs, cats, or other household pets may be kept or maintained provided that they are not kept or maintained for commercial nor consumption purposes and are controlled in accordance with applicable governmental ordinances and are not a nuisance to other owners. Also, pet owners are responsible for the immediate removal of their pet's feces on their lot and other lots. Dog owners shall be in compliance with the New Hanover County and Carolina Beach leash laws.**
- 10. No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles maybe installed only within the main dwelling house, within an accessory building, within a screened area, or buried underground.**
- 11. It shall be the responsibility of each lot owner to prevent the development any unclean, unsightly, dangerous or unkempt conditions of buildings or grounds on such lot which**

would tend to substantially decrease the beauty of the neighborhood as a whole or the specific area. Such determination shall be at the sole discretion of the Board of Directors.

12. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals or device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof.
13. No lot may be subdivided, or its boundary lines changed except with the prior written consent of CAROLINA SANDS HOMEOWNERS ASSOCIATION, INC. However, CAROLINA SANDS HOMEOWNERS ASSOCIATION, INC. expressly reserves to itself, its successors and assigns, the right to re-plat any two (2) or more lots in order to create a modified building lot or lots, and to take such steps as are reasonably necessary to make such re-platted lot suitable and fit as a building site, said steps to include, but not be limited to, the relocation of easements, walkways and rights of way to conform to the new boundaries to the said re-platted lots.
14. Each lot owner shall provide receptacles for garbage and all cans, carts and bags must be kept in a screened area, accessory building or other storage facility, and not visible from the street, except on garbage pick-up days.
15.
 - a. Any construction activity on a lot shall be confined within the boundaries of said lot. Each lot owner shall have the obligation to collect and dispose of all rubbish and trash resulting from construction of his/her lot. Upon a lot owner's failure to collect and dispose of such trash within fifteen (15) days after receipt of a written notice from Carolina Sands Homeowners Association, INC., the association may collect and dispose of such rubbish and trash at the lot owner's expense. New construction and major remodeling projects require the use of dumpster or solid, stable container for collection of waste materials. The Board of Directors may require this when this is necessary for remodeling. In addition, every consideration should be given to the preservation of trees or natural foliage on each lot.
 - b. The exterior of any structure under construction on any lot must be completed within six (6) months after the beginning of construction, acts of God notwithstanding. Extensions may be granted by the Board of Directors upon request.
16. Water and sewer to all lots will be provided by the Town of Carolina Beach. Shallow wells for the purpose of watering lawns and not for human use, may be permitted with the consent of the Town of Carolina Beach. Any such well must be located no closer than the front building line of the residence constructed on said lot.
17. Easements for installation and maintenance of utilities and drainage facilities are reserved over the rear ten (10') feet of all lots and easements for drainage and utilities are reserved as shown and designated on the plat of said property. CAROLINA SANDS HOMEOWNERS ASSOCIATION, INC. shall have no responsibility for maintaining

drainage easements in connection with any lots sold. All maintenance shall be the responsibility of the purchaser of a lot, his heirs, successors and assigns, within said easements. No structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

- 18. a. Each lot owner in the development, upon the recording of his deed to said lot, becomes a member of CAROLINA SANDS HOME OWNERS ASSOCIATION, INC. No person, firm or corporation or other legal entity may be a member of the Association unless he, she or it is a lot owner.**
- b. Every lot owner shall pay to Carolina Sands Homeowners Association, Inc. a yearly assessment of \$250.00 for dues. The cost of these dues may change from time to time as needed. These fees shall be due January 1st of each year and will be late as of March 15th of each year. Late fees and penalties shall be applied in accordance with the North Carolina Planned Communities Act. Lot owners may obtain HOA financial statements upon request.**
- 19. All lots in the subdivision shall be used for single family residential purposes only, except for those previously grandfathered. Leases of residences within the sub division may only be for entire lots or houses, for periods of not less than six months and subleasing of partial premises is strictly prohibited. All leases for single family residences must be in writing and signed by the owner and tenant. All leases must contain copies of the Association bylaws and require the tenants to sign and comply with the stated guidelines. It is the responsibility of owners leasing their property to maintain aforementioned agreements. It is the owners' responsibility to ensure that the property is in compliance with HOA by-laws.**
- 20. Invalidation of anyone of these covenants by judgment or court order shall in no way affect any of the other covenants herein.**
- 21. If the parties hereto, or any of them, or their heirs and assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons owning any real property situated in said Carolina Sands subdivision or the Board of Directors of CAROLINA SANDS HOMEOWNERS ASSOCIATION, INC. to prosecute any proceedings at law or in equity against the person or persons violating any such covenants, and either to prevent him or them from doing or to recover damages or other dues for such violation.**
- 22. The Board of Directors will seek and get community approval, by a vote as stated in the by-laws, before approving funds, in excess of 20% of total annual receipts, for any new amenity or purchase not related to general maintenance of existing facilities.**
- 23. Should an owner of any lot in Carolina Sands file any legal action against the Carolina**

Sands Homeowner Association and/or any member of its Board of Directors, then upon such occurrence and should the civil action be dismissed by the lot owners/plaintiff, or should the Carolina Sands Homeowners Association and/or any member of the Board of Directors prevail in the litigation, then upon such occurrence, the lot owner shall be liable for all costs and fees associated with the defense of the litigation to include but not limited to reasonable attorneys' fees.

- 24. WHEREAS, by amendment to the Declarations dated June 18, 1982 and recorded in Book 1204, Page 558 of the New Hanover County Registry, the construction of condominiums in Carolina Sands is strictly precluded. All condominiums created in Carolina Sands prior to the date of said amendment shall be entitled to one vote per lot as relates to any matters conducted by the Carolina Sands Homeowners Association requiring a vote and furthermore each condominium owner shall be liable for the payment for all association dues and assessments as determined by the Board of Directors.**

- 25. These restrictions may be amended by vote of the owners of 2/3 of the lots or of their submitted proxies. If a proxy is not submitted, and the owner is not present when a vote is taken, the Board of Directors shall have the right to cast the absent owner's vote along with the majority of members represented either in person or by proxy. IN WITNESS WHEREOF, the Carolina Sands Owner's Association has caused this instrument to be executed by its President and Secretary, and its corporate seal to be affixed hereto this 22 day of September, 1997.**