

2/12 Prepared by: The Tides Homeowners
Association, Inc.

Return to: Charles D. Meier
Marshall, Williams & Gorham, LLP

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REGISTER OF DEEDS
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Page 1 of 1

AMENDED BY-LAWS
OF THE
TIDES HOMEOWNERS ASSOCIATION, INC.
A corporation not for profit under the
laws of the State of North Carolina

1. IDENTITY.

The By-Laws as recorded in Book 1291 on Page 1517 are hereby Amended on the date hereinafter set forth by The TIDES HOMEOWNERS ASSOCIATION, INC., a not for profit corporation with its charter recorded in Book 1290 Page 1665 of the New Hanover County Registry, said subdivision being recorded on a Map in Book 25 Page 29 of said Registry, the Common Areas of which have been subsequently deeded to The Tides Homeowners Association, Inc., as recorded in Book 1997 on Page 0858 and in Book 1997 on Page 0861 of said Registry; for the purpose of administering the operation and management of The Tides hereinafter referenced as the "Development"

- A. The provisions of these By-Laws are applicable to the Development, and the terms and provisions hereof are expressly subject to the terms, provisions, conditions and authorizations contained in the Articles of Incorporation and in the By-Laws which will be recorded in the New Hanover County Public Registry, North Carolina, the terms and provisions of said Articles of Incorporation to be controlling wherever they may be in conflict herewith.
- B. All present or future owners, tenants, future tenants, or their employees, or any other person that might use the Development known as "The Tides" or any of the facilities thereof in any manner, are subject to the regulations set forth in these By-Laws and in said Articles of Incorporation
- C. The office of the Association shall be at such place in New Hanover County, North Carolina, as the Board of Directors shall designate from time to time
- D. The fiscal year of the Association shall be the calendar year.
- E. The Board of Directors of the Association hereinafter referred to as the Board, shall be the governing body of the Association

2. MEMBERSHIP, VOTING, QUORUM, PROXIES.

- A. The qualification of members, the manner of their admission to membership and termination of such membership, and voting by members, shall be as set forth in Article VI of the Articles of Incorporation of the Association, the provisions of which said Article VI of the Articles of Incorporation are incorporated herein by reference.
- B. A quorum is more than 50% of the total number of votes entitled to be cast by

members, present in person, or represented by written proxy. The joinder of a member in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of each person for the purpose of determining a quorum.

- C. The vote of the Owners of an individual lot within the Development owned by more than one person or by a corporation or other entity shall be cast by the one person named in a Certificate (Designation of Voting Representative) signed by all of the Owners of that lot and filed with the Secretary of the Association, and such Certificate shall be valid until revoked by subsequent Certificate. If such a Certificate is not on file, the vote of such Owners shall not be considered for any purpose.
- D. Votes may be cast in person or by proxy. Proxies shall be made only for the particular meeting designated thereon and must be filed with the Secretary before the appointed time of the meeting.
- E. Approval or disapproval of an Owner upon any matter, whether or not the subject of an Association meeting, shall be by the same person who would cast the vote of such Owner if in an Association meeting.
- F. Except where otherwise required under the provisions of the Articles of Incorporation of the Association and these By-Laws, or whether the same may otherwise be required by law, the affirmative vote of the persons entitled to cast a majority of the votes at any duly called members' meeting at which a quorum is present shall be binding upon the all members.

3. ANNUAL AND SPECIAL MEETING OF MEMBERSHIP.

- A. The Annual Members' Meeting shall be held at a time and place designated by the Board of Directors, in the month of November of each year that is not a legal holiday or on another business day if the Board of Directors determines it more appropriate for attendance by the membership, for the purpose of electing directors and of transacting any other business authorized to be transacted by the members.
- B. Special Meetings shall be held whenever called by the President or Vice-President or by a majority of the Board of Directors and must be called by such Officers upon receipt of written request from a majority of the members of the Association.
- C. Notice of all Members' Meetings, regular or special, shall be given by the President, Vice-President or Secretary of the Association, or other Officer of the Association in absence of said officers, to each member, unless waived in writing, such notice to be written and to state the time and place and purpose for which the meeting is called. Such notice shall be given to each member not less than ten (10) days nor more than sixty (60) days prior to the date set for such meeting, which notice shall be mailed or delivered

personally to each member within said time. If delivered personally, receipt of such notice shall be signed by the member, indicating the date on which such notice was received by him. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his post office address as it appears on the Register of Owners of the Association as of the date of mailing such notice, the postage thereon prepaid. Proof of such mailing shall be given by the Affidavit of the person giving the notice. Any member may, by signed written waiver of notice, waive such notice and, when filed in the records of the Association, whether before or after the holding of the meeting, such waiver shall be deemed equivalent to the giving of notice to the member. If any members' meeting cannot be organized because a quorum has not attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended (wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation and these By-Laws) the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum, or the required percentage of attendance, if greater than a quorum, is present.

D. The order of business as far as practical at any members' meetings, shall be :

1. Calling of the roll and certifying of proxies,
2. Proof of notice of meeting or waiver of notice;
3. Appointment of Inspectors of Election by Chairman,
4. Reading and disposal of any unapproved minutes,
5. Reports of Officers;
6. Reports of Committees,
7. Unfinished business,
8. New business; and
9. Adjournment

4. BOARD OF DIRECTORS.

A. The Board of Directors shall consist of seven (7) persons

B. Election of Directors shall be conducted in the following manner:

1. All members of the Board of Directors shall be members of the association duly elected by a plurality of the votes cast at the Annual Meeting of the members of the Association.

2. Vacancies in the Board of Directors may be filled until the date of the next Annual Meeting by the remaining Directors

3. Each Director shall hold office for a term of two (2) years or until his death, resignation, retirement, removal, disqualification, or until his successor is elected. A Director may not exceed 2 (two) consecutive terms. After having served 2 terms, a property owner may not serve again until he/she has had a

one term absence from service on the Board of Directors. In the event that nominees can not be obtained by the annual meeting time and date, previous or outgoing members may be appointed by the Board to serve until the next annual meeting. In order to ensure continuity of the Board, members will serve two (2) years with alternating terms, three (3) new members one year and four (4) new members the following year. This sequence of overlapping terms will guarantee a minimum of three (3) experienced Board members at all times.

4. In the election of Directors, there shall belong to each lot one vote which is that property owners undivided interest in the Common Area; therefore one vote is allowed for each vacant seat on the board.

- C. The first organizational meeting of each newly elected Board of Directors shall be held within thirty (30) days of their election, at such time and at such place as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary, provided a quorum shall be present. This will be a joint meeting of the existing Board and the new Board Members. The existing President will preside and new Members will be considered guests until the finish of old business, at which time the retiring Members not including the President will be excused. The existing President will preside during the election of the new President after which the newly elected President shall preside over the organizational meeting of the new Board. The term of any Board shall be the calendar year which that Board is elected to serve.
- D. Regular meetings of the Board of Directors may be held at such time and place as shall be determined at the Directors meeting previously held. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least three (3) days prior to the day named for such meeting, unless notice is waived.
- E. Special meetings of the Directors may be called by the President, and must be called by the Secretary at the written request by one-third of the votes of the Board. Not less than three (3) days notice of a meeting shall be given to each Director, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.
- F. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.
- G. A quorum at Directors' meeting shall consist of the Directors entitled to cast a majority of the votes of the entire Board. The acts of the Board approved by a majority of the votes cast at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except as specifically otherwise provided in the Articles of Incorporation, or these By-Laws or the Declaration of Covenants, Conditions and Restrictions. If any Directors' meeting cannot be organized because a quorum has not attended, or because the greater

percentage of the Directors required to constitute a quorum for particular purposes has not attended, wherever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws and Declaration of Covenants, Conditions and Restrictions, the Directors who are present may adjourn the meeting from time to time until a quorum, or the required percentage of attendance if greater than a quorum, is present. At any adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof shall constitute the presence of such Director for the purpose of determining a quorum

H The Presiding Officer of Directors' meetings shall be the President of the Association. In the absence of the Presiding Officer, the Vice-President shall preside.

I All of the powers and duties of the Association shall be exercised by the Board of Directors, including those existing under the common law and statutes, the Articles of Incorporation of the Association, these By-Laws and the Declaration of Covenants, Conditions and Restrictions. Such powers and duties shall be exercised in accordance with said Articles of Incorporation, these By-Laws and the Declaration of Covenants, Conditions and Restrictions, and shall include, without limiting the generality of the foregoing, the following

1 To make, levy and collect assessments to defray the costs of the Development, as provided for in the Articles of Incorporation, and to use the proceeds of said assessments in the exercise of the powers and duties granted unto the Association.

2 To maintain, repair, replace, operate and manage the Common Areas and Facilities wherever the same is required to be done and accomplished by the Association for the benefit of its members, and further to approve any expenditure made or to be made for said purposes.

3 To reconstruct any part of the Common Property after casualty in accordance with the Articles of Incorporation, and to make further improvement to the Common Property, real and personal, and to make and to enter into any and all contracts necessary or desirable to accomplish said purposes

4 To make, amend and enforce the current Rules & Regulations governing the use of the Common Property and individually owned properties within the Development, so long as such Rules & Regulations or amendments thereto do not conflict with the restrictions and limitations which may be placed upon the use of such property under the terms of the Articles of Incorporation and Declaration of Covenants, Conditions and Restrictions

- 5 To acquire, operate, lease, manage and otherwise trade and deal with property, real and personal, as may be necessary in the operation and management of the Development, and in accomplishing the purposes set forth in the Declaration of Covenants, Conditions and Restrictions. Provided however, the Board of Directors shall not sell or other dispose of common property (except the designated common septic lot number 48) without a majority vote of the homeowners
 - 6 To acquire now or at any time hereafter, and to enter into leases and agreements whereby the Association acquires leaseholds, memberships, and other possession or use interests in lands or facilities, including, but not limited to, swimming pools, tennis and other recreational facilities whether or not contiguous to the lands of the Development, to provide enjoyment, recreation or other use or benefit to the Owners of property within the Development
 - 7 To contract for the management of the Development and to designate to such contractor all of the powers and duties of the Association, except those which may be required by the Declaration of Covenants, Conditions and Restrictions, to have approval of the Board of Directors or membership of the Association
 8. To enforce by legal means or proceedings the provision of the Articles of Incorporation and By-Laws of the Association, the Declaration of Covenants, Conditions and Restrictions, and the Rules & Regulations hereinafter promulgated governing use of the Common Property and individually owned properties within the Development.
 - 9 To pay all taxes and assessments which are or may become liens against any part of the Development, other than individually owned lots, and the appurtenances thereto, and to assess the same against the members and their respective properties subject to such liens.
 - 10 To purchase insurance for the protection of the members and the Association against casualty and liability.
 11. To pay all costs of power, water, sewer, and other utility services rendered to the Development and not billed to the Owners of the individually owned properties
 - 12 To designate and/or remove personnel necessary for the maintenance, repair, replacement and operation of the Development, including the Common Property
- J The undertakings and contracts authorized by the Board of Directors duly elected by the membership shall be binding upon the Association after the Declaration of Covenants, Conditions and Restrictions has been recorded, so long as such undertakings and contracts are within the scope of the powers

and duties which may be exercised by the Board of Directors of the Association in accordance with all applicable documents

- K Any one or more of the members of the Board of Directors may be removed, either with or without cause, at any time by a majority vote of the membership at any Special Meeting called for such purpose, or at the Annual Meeting.

5. OFFICERS.

- A The executive officers of the Association shall be a President, a Vice President, a Treasurer, a Secretary and an Assistant Secretary, all of whom shall be elected annually by the Board of Directors and who may be peremptorily removed by a vote of the Directors at any meeting. Any persons may hold two or more offices, except that the President shall not also be Vice-President, Secretary or an Assistant Secretary. The Board of Directors shall from time to time, elect such other officers and designate their powers and duties as the Board shall find to be required to manage the affairs of the Association.
- B. The President shall be the chief executive officer of the Association. He/she shall have all the powers and duties which are usually vested in the office of the President of any Association, including the power to appoint committees from among the members as he/she may determine appropriate to assist in the conduct of the affairs of the Association. However, the President will always act subject to the directions of the Board of Directors as provided by Article VIII of the Articles of Incorporation.
- C The Vice-President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He/she shall also generally assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Directors.
- D The Secretary shall keep the minutes of all proceedings of the Directors and the members. He/she shall attend to the giving and serving of all notices to the members and Directors, and such other notices required by law. He/she shall have custody of the Seal of the Association, and affix the same to instruments requiring a Seal when duly signed. He/she shall keep the records of the Association, except those of the Treasurer, and shall perform all other duties incident to the office of Secretary of an Association and as may be required by the Directors or the President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent.
- E The Treasurer shall have custody of all of the financial assets of the Association, including funds, securities and evidence of indebtedness. He/she shall keep, or supervise the keeping of, detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Areas and facilities, specifying and identifying the maintenance and repair expenses of the Common Areas and facilities and any other expense

incurred

- F There shall be no compensation of the members of the Board of Directors. The compensation of employees of the Association shall be fixed by the Directors.
- G All officers shall serve at the pleasure of the Board of Directors and any Officer may be removed from office at any time, with or without cause, by a majority vote of the Board of Directors. The removed officer shall still remain on the Board of Directors unless unanimously voted off the Board by the other members.

6. FISCAL MANAGEMENT.

- A. The assessment/dues roll shall be maintained in a set of accounting books in which there shall be an account for each lot. Such account shall designate the name and address of the Lot Owner or Owners, the amount of each assessment/dues against the Owners, the dates and amounts in which assessments/dues come due, the amounts paid upon the account and the balance due upon assessments/dues.
- B The Board of Directors shall adopt a budget for each calendar year which shall contain estimates of the cost of performing the functions of the Association, including, but not limited to the following:
 - 1. Common Expense budget, which may include, without limiting the generality of the foregoing, the estimated amounts necessary for maintenance and operation of and capital improvements to the Common Property including landscaping, streets and walkways, easements, office and administration expense, liability and casualty insurance, and reserves (Operating and Capital Improvement Replacement), management fees and costs of maintaining leaseholds, and other possession or use interests in lands or facilities contiguous to the lands of the Development to provide enjoyment, recreation or other use or benefit to the Lot Owners; and
 - 2 Proposed assessments/dues against each member and his Lot. Copies of the proposed budget and proposed assessments/dues shall be transmitted to each member prior to January 1 of the year for which the budget is made. If the budget is subsequently amended before the assessments/dues are made, a copy of the amended budget shall be furnished each member concerned. Non-delivery of a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment/dues, nor shall delivery of a copy of such budget or amended budget be considered as a condition precedent to the effectiveness of said budget and assessments/dues levied pursuant thereto and nothing herein contained shall be construed as restricting the right of the Board of Directors, at any time in their sole discretion, to levy any special assessments in the event that the budget originally adopted shall appear to be insufficient to pay costs and

expenses of operation and management, or in the event of emergencies

- C The Board of Directors shall retain by contract a professional management service to be primarily responsible for fiscal management of the Association and maintaining the Development Any management agreement for the Development will be terminable by the Association with or without cause upon thirty (30) days written notice thereof, and the term of any such agreement may not exceed one year, renewable by agreement of the parties for successive one-year periods.
- D The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which the funds of the Association shall be deposited Withdrawal of funds from such accounts shall be only by checks signed by such persons as are authorized by the Directors
- E The accounting books and all supporting documentation shall be available for examination by all Lot Owners and their Lenders or their agents during normal business hours.
- F Proper financial controls of the Association's funds are the responsibility of the Treasurer and ultimately the Board. The Treasurer may periodically recommend a complete audit of the Association accounts by a Certified Public Accountant, or a less comprehensive "Review" or "Compilation" of financial records A copy of any such report shall be provided to each member of the Association within 45 days of receipt by the Board.
- G Fidelity bonds may be required by the Board of Directors from the Treasurer and/or employees of the Association and from any contractor handling or responsible for Association funds The amount of such bonds shall be determined by the Directors The premiums on such bonds shall be paid by the Association

7. PARLIAMENTARY RULES.

Roberts Rules of Order shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the Statutes of the State of North Carolina The presiding President shall denote annually the edition that will be used

8. AMENDMENTS TO BY-LAWS.

Amendments to these By-Laws shall be proposed and adopted in the following manner.

- A Amendments to these By-Laws may be proposed by the Board of Directors of the Association acting upon a vote of the majority of the Directors, or by members of the Association owning a majority of the lots in the Development, whether meeting as members or by instrument in writing signed by them

- B Upon any amendment to these By-Laws being proposed by said Board of Directors or members, such proposed amendment shall be transmitted to the President of the Association, or other Officer of the Association in the absence of the President, who shall thereupon call a Special Joint Meeting of the members of the Board of Directors of the Association and the membership for a date not sooner than ten (10) days or later than sixty (60) days from receipt by such Officer of the proposed amendment and it shall be the duty of the Secretary to give to each member written notice of such meeting in the same form and in the same manner as notice of the call of a Special Meeting of the members is required as herein set forth
- C In order for such amendment to become effective, it must be approved by an affirmative vote of a majority of the members of the Association. Thereupon, such amendment or amendments to these By-Laws shall be transcribed, certified by the Secretary of the Association, and a copy thereof shall be recorded in the New Hanover County Public Registry, North Carolina, within twenty (20) days from the date on which any amendment has been approved by the Directors and members. No amendment shall become effective until it is duly recorded
- D. Upon the approval and proper recording of any amendment, it shall become binding upon all Lot Owners.
- E At any meeting held to consider any amendment to the By-Laws, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association at or prior to such meeting

9. RULES OF CONDUCT.

The Tides Homeowners Association in accordance with the authoritative powers vested to them by the Articles of Inc., and these By-laws have compiled a Declaration of Covenants, Conditions & Restrictions. The Board of Directors of the Association have compiled a set of Rules & Regulations. All of the above referenced documents are hereby set forth for all owners, tenants, guest or employees to be adhered to for the harmonious existence of the Development. Furthermore, if any of the provisions in said documents are broken, the Association through the Board of Directors has the right to levy fines and/or to proceed by legal means to enforce compliance.

10. COMPLIANCE.

These By-Laws are set forth to comply with the requirements of the General Statutes of the State of North Carolina. In the event that any of these By-Laws conflict with the provisions of said statutes, it is hereby agreed and accepted that the provisions of the statute will apply

The foregoing were adopted as the **Amended By-Laws of THE TIDES HOMEOWNERS ASSOCIATION, INC.** at a meeting of the **ASSOCIATION** on November 18, 1996, amended thereafter at a meeting of the **ASSOCIATION** on November 15, 1999, to take effect after grammatical corrections were approved November 6, 2000.

The Tides Homeowners Association, Inc

By: Robert S. Menard
President

Witnessed by: Lee A. McWilliams
Secretary

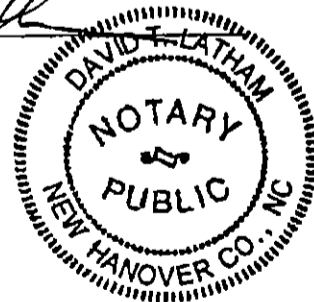
STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, DAVID T. LATHAM, a Notary Public, certify that ROBERT S. MENARD personally came before me this day and acknowledged that he/she is President of The Tides Homeowners Association, Inc, a North Carolina non-profit corporation, and that he/she as President, being authorized to do so, executed the foregoing amended By-Laws of The Tides Homeowners Association, Inc., on behalf of the Association

Witness my hand and official seal this the 27th day of November, 2000

David T. Latham
Notary Public



My Commission Expires 7/20/03