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BK: RB 6532



PG: 219-248

2022002554

NC FEE \$82.00

RECORDED:  
01-24-2022

NEW HANOVER COUNTY, NC

09:28:24 AM

TAMMY THEUSCH PIVER

BY: ANGELA ENGLISH  
DEPUTY

REGISTER OF DEEDS

Prepared by: Birch Creek II Condominiums, Inc.  
After Recording, Mail to: 114 N. 6<sup>th</sup> Street  
Wilmington, NC 28401

STATE OF NORTH CAROLINA

AMENDMENT TO THE  
DECLARATION OF  
CONDOMINIUM BIRCH  
CREEK II CONDOMINIUMS

COUNTY OF NEW HANOVER

**WHEREAS**, The DECLARATION OF CONDOMINIUM BIRCH CREEK II CONDOMINIUMS was recorded on July 3<sup>rd</sup> 1989, in Book 1462 at page 0159, in the office of the Register of Deeds, New Hanover County, State of North Carolina; and

**WHEREAS**, such Declaration under Article 20, first paragraph, provides that, "AMENDMENT OF DECLARATION. This Declaration may be amended by the vote of 67% in common interest of all Unit Owners present in Person or by proxy at a meeting duly held in accordance with the provisions of the By-Laws. The By-Law may be amended in accordance with the procedure set forth in such By-Laws. No such amendment shall be effective until recorded in the Office of the Register of Deeds for the County wherein the Property is located. Provided, that in no event may Declaration be amended so as to deprive the Declarant of any rights granted herein, including, without limitation, the rights to rent any Unit. Declarant in his sole discretion may, prior to termination of Declarant control, amend the Declaration to include a provision that an amendment to this Declaration which proposes to annex additional Property, other than that contemplated by Declarant at the time of execution of this Declaration, or which abrogates the rights of any Unit Owner, shall not be valid without the prior written consent of the Administrator of Veterans Affairs, Secretary of Housing and Urban Development or other mortgage lender, as may be required and/or their successors in such office, as such, and/or their duly appointed representative."; and

**WHEREAS**, such Declaration provides no limitations upon the term and duration of any lease or rental agreement of any Unit;" and

**WHEREAS**, the members and Board of Directors of Birch Creek II Condominiums desires to limit the duration of any lease or rental agreement to a minimal term of six (6) months; and

**WHEREAS**, ARTICLE 7, first paragraph now reads, "USE. Subject to the right of the Declarant specifically reserved hereby to construct models and a sales office to assist or facilitate the sale of Units, the Building and each of the Units shall be used only for residential purposes, which shall include the rental of any Units by the Owners thereof for residential and lodging accommodations pursuant to the rules and regulations established by the Association and other uses reasonably incidental thereto, including meetings by person owning or occupying such Units; provided, however, that Declarant reserves the right to construct models and one or more sales offices to assist or facilitate the sale of Units. The sale offices or models may but are not required to be Units within any of the Condominium Buildings. If a sales office or model is a Unit within any Condominium Building, then that unit shall be designated as a condominium Unit on the Plats and Plans and shall carry with it the rights and responsibilities of ownership of a Unit in the Condominium, included, but not limited to, the responsibility to pay its pro rata share of Common Expenses. Further, Declarant reserve the right to use all recreation and other Common Areas for its reasonable sales effort whether the sales office of model in a condominium Unit or not.

"The residential use contemplated by this paragraph cannot be changed, amended, or modified without the written consent of the Owners of a majority of all units." and

**WHEREAS**, to limit the minimum duration of any lease or rental agreement the following sentence is added to Article 7, first paragraph "No lease or rental agreement shall be less than a term of six (6) months nor shall any subleasing be allowed to circumvent this minimal term.;" and

**NOW, THEREFORE, IT IS RESOLVED**, that ARTICLE 7, first and second paragraph is hereby amended to read as follows: "USE. Subject to the right of the Declarant specifically reserved hereby to construct models and a sales office to assist or facilitate the sale of Units, the Building and each of the Units shall be used only for residential purposes, which shall include the rental of any Units by the Owners thereof for residential and lodging accommodations pursuant to the rules and regulations established by the Association and other uses reasonably incidental thereto, including meetings by person owning or occupying such Units; provided, however, that Declarant reserves the right to construct models and one or more sales offices to assist or facilitate the sale of Units. No lease or rental agreement shall be less than a term of six (6) months nor shall any subleasing be allowed to circumvent this minimal term. The sale offices or models may but are not required to be Units within any of the Condominium Buildings. If a sales office or model is a Unit within any Condominium Building, then that unit shall be designated as a condominium Unit on the Plats and Plans and shall carry with it the rights and responsibilities of ownership of a Unit in the Condominium, included, but not limited to, the responsibility to pay its pro rata share of Common Expenses. Further, Declarant reserve the right to use all recreation and other Common Areas for its reasonable sales effort whether the sales office of model in a condominium Unit or not.

The residential use contemplated by this paragraph cannot be changed, amended, or modified without the written consent of the Owners of a majority of all units."

**IN WITNESS WHEREOF**, I attest that this amendment has been passed by the vote of 67% in common interest of all Unit Owners present in Person or by proxy at a meeting duly held in accordance with the provisions of the By-Laws of Birch Creek II Condominiums., as per ARTICLE 20 of the Declaration, this the 6<sup>th</sup> day of January, 2022.

Janis Leise (SEAL)  
**Janis Leise**, President  
Birch Creek II Condominiums

I ATTEST, that the above signature and matter is true and correct this the 6th day of JAN, 2021. 2022

Marsha Zorn

[CORPORATE SEAL]

(SEAL)

**Marsha Zorn**, Secretary  
Birch Creek II Condominiums

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Julianne E. Assad, a Notary Public of the County and State aforesaid, certify that Marsha Zorn, either being personally known to me or proven by satisfactory evidence, personally came before me this day and acknowledged that she is the Secretary of Swann Plantation Townhouse Subdivision, Phase I, a North Carolina Non-Profit Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by Marsha Zorn as Secretary.

My hand and official seal this 6th day of January, 2022



Julianne E. Assad  
Notary Public

My Commission Expires: 11/21/2025

I \_\_\_\_\_ support the above amendment to the Declaration of Birch Creek II. **print name**

\_\_\_\_\_  
*Signature*

Unit Number \_\_\_\_\_

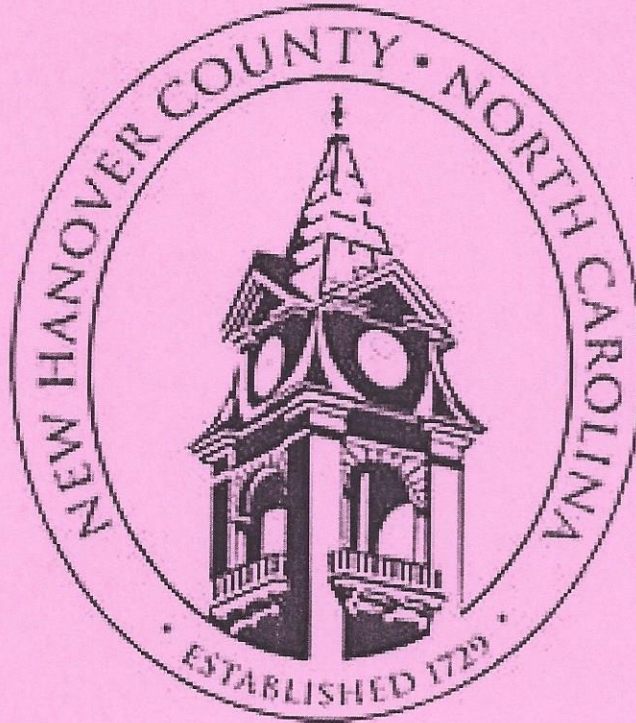
Date \_\_\_\_\_



TAMMY THEUSCH  
PIVER  
Register of Deeds

# New Hanover County Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401  
Telephone 910-798-4530 • Fax 910-798-7716



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State of North Carolina, County of NEW HANOVER  
Filed For Registration: 01/24/2022 09:28:24 AM  
Book: RB 6532 Page: 219-248  
30 PGS \$82.00  
Real Property \$82.00  
Recorder: ANGELA ENGLISH  
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**DO NOT REMOVE!**

This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.