

RF

7



Doc ID: 035120190007 Type: CRP
Recorded: 12/07/2021 at 09:55:20 AM
Fee Amt: \$26.00 Page 1 of 7
Workflow# 0000744678-0001
Buncombe County, NC
Drew Reisinger Register of Deeds
BK **6157** PG **1431-1437**

Please return to Erin F. Dunnuck, Esq., Dunnuck Law Firm, P.L.L.C., 16 Broad Street, Asheville, North Carolina 28801

References: Deed Book 4056, Page 716
Deed Book 4109, Page 976

**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

**AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR HADLEY PARK**

THIS AMENDMENT made this 1st day of December, 2021, by Hadley Park Homeowners Association, Inc., a North Carolina non-profit corporation;

WHEREAS, Hadley Park Homeowners Association, Inc., ("Association") is the association of owners at Hadley Park, an association of Lot owners located in Buncombe County, North Carolina; and

WHEREAS, the Association is subject to the Declaration of Covenants, Conditions and Restrictions for Hadley Park recorded in the Buncombe County Registry of Deeds in Deed Book 4056 at Page 716, as amended ("Declaration"); and

WHEREAS, in accordance with the provisions of Article XIV, Section 2 of the Declaration, the owners of Lots to which sixty-seven percent (67%) of the votes are allocated voted in favor of this amendment to the Declaration;

NOW THEREFORE, the Declaration of Covenants, Conditions and Restrictions for Hadley Park is hereby amended as follows:

The Declaration shall be amended by deleting Section 18 of Article IX in its entirety and replacing this Section with the following Section 18 of Article IX of the Declaration:

**ARTICLE IX
USE RESTRICTIONS**

Section 18. Land Use. "Leasing" for purposes of this Declaration is defined as regular occupancy of a Lot by any person other than the Owner for which the Owner receives any consideration or benefit, including a fee, service, gratuity or emolument.

(a) **Purpose.** The purpose of this Section is (i) to protect the equity of the individual property Owners in the Association and (ii) to carry out the purpose for which the Planned Community was formed by preserving the character of the Planned Community as a residential community of owner-occupied homes and by preventing the Planned Community from assuming the character of a renter-occupied community.

(b) **Conditions.** With limited exceptions, no more than twenty five percent (25%) of the sixty seven (67) Lots at Hadley Park Planned Community, may be leased at any time. All Lots may be leased only in their entirety; no fraction or portion may be leased. No transient tenants shall be permitted. All leases must be for a term of not less than one (1) year, unless permitted in writing by the Board of Directors which permission is in the sole discretion of the Board. Month-to-month lease extension after the end of a one (1) year lease must be approved in writing by the Board of Directors and shall not exceed three (3) months. No Lot may be subleased.

All leases, lessors and lessees are subject to the provisions of the Declaration, Bylaws, and Rules and Regulations. The Owners shall make available to the tenant copies of the Declaration, Bylaws, and Rules and Regulations.

All Owners shall register any and all changes in the status of a rental/leased Lot, including vacancies and the renewal of leases, with the Association, within fifteen (15) days.

All Owners shall abide by the following procedures prior to leasing their Lot (except "Investor-Owners" as explained below):

- i. Before a Lot can be leased at Hadley Park, Owners shall present a completed Request to Lease Form to the Board of Directors, or their designated representative, for approval.
- ii. Upon receipt of a Request to Lease Form, the Board of Directors shall determine the number of Lots leased at that time and shall not approve any Request to Lease Form which causes the number of Lots leased to exceed the maximum twenty five percent (25%). The Board shall give notice of its action to the Owner within five (5) business days of receiving the request.

- iii. If the Board, or their designated representative, has approved an Owner's Request to Lease Form, the Owner may start the process of leasing its Lot. At least fifteen (15) days before the effective date of such proposed lease, the Owner shall present the lease to the Board of Directors, or their designated representative, for approval. The Board shall give the Owner notice of whether the proposed lease is approved within five (5) business days of receiving the request.
- iv. If an Owner presents a Request to Lease Form and the maximum twenty five percent (25%) Lots are already leased and the Owner does not qualify for an undue hardship exemption as explained below, the Owner can request that the Board of Directors place the Lot on the Lease Waiting List. A request to be placed on the Lease Waiting List must be in writing and delivered or mailed to the Board or its designated representative. The Lease Waiting List shall be developed on a "first come, first serve" basis, to be determined by the postmark on the envelope in which the request has been mailed or, if hand delivered, the date it is received by the Board or its designated representative.
- v. If a lessee's occupancy of one (1) of the previously leased Lots ends, the Owner of said Lot may replace the lessee within ninety (90) days of (i) the date of the termination of the lease or, (ii) the date the Lessee moves out of the premises, if said move is greater than one month prior to the termination of the lease. If the Owner fails to replace the lessee of said Lot within ninety (90) days, the Owner shall forfeit his ability to lease at the end of the ninety (90) days and the Owner's name will be placed at the bottom of the Lease Waiting List. After an Owner loses its leasing privileges for a Lot, the Board shall promptly notify the Owner at the beginning of the Lease Waiting List of the availability.

All Owners that are currently renting/leasing their Lot shall register the rental/leased Lot with the Association within fifteen (15) days of the recording of this Amendment with the Buncombe County Registry of Deeds. In order to properly register a rental/leased Lot with the Association, the Owner of a rental/leased Lot must provide the Association, through the Board of Directors, or their designated representative, the name(s) of the tenants in the rental/leased Lot, a telephone number by which the tenant(s) may be contacted by the Association if the need arises, a copy of the lease and the term (duration) of the lease. All Owners shall register any and all changes in the status of a rental/leased Lot, including vacancies and the renewal of leases, with the Association, within fifteen (15) days.

The Board of Directors of the Association has the authority to promulgate Rules and Regulations related to this Section. The Association may require that Owners and tenants execute a document acknowledging Article IX, Section 18 of the Declaration or other related forms.

The Association recognizes that fourteen (14) Lots are leased at the time of recording this Amendment. For the purposes of this Amendment, "Investor-Owners" shall be Owners that are currently leasing one of the fourteen (14) Lots at the time of recording this Amendment.

(c) **Hardship Exemption.** The Board shall have the option in its sole discretion to allow leasing of a Lot at any time to avoid undue hardship. If the Board determines that it is appropriate to grant an Owner a hardship exemption, the Owner shall be allowed to lease the Lot for a hardship period of one (1) year. The Owner of a Lot who believes that leasing is necessary to avoid undue hardship shall make a written application to the Board for approval at least fifteen (15) days before the effective date of such proposed lease, setting forth the pertinent circumstances and giving other notice as required herein. Circumstances which the Board may determine to impose undue hardship may include, by way of example but not limitation, (i) where an Owner must relocate and cannot sell the Lot within ninety (90) days from the date the Lot was placed on the market, for at least the current appraised market value, having made reasonable efforts to do so; (ii) the death of the Owner when the Estate's representative makes a request to lease; and (iii) where the Owner is required by his or her employer to relocate temporarily, and intends to return to reside in the Lot. The Board shall approve or disapprove the lease pursuant to the terms of the Declaration as amended, and shall give notice of its action to the Owner within five (5) business days of receiving the request.

If the Board has granted an Owner a hardship exemption and the Owner of a Lot still believes that leasing the Lot is necessary to avoid undue hardship after the initial one (1) year hardship period has passed, the Owner shall make written application to the Board for an extension for another year of the hardship period.

(d) **Lot Occupied by Family Member.** If an Owner's family member, but not the Owner, intends to occupy a Lot, the Lot might not be considered "leased" under this Amendment. The Owner shall present the Board, with proof that a family member intends to occupy the Lot. The Board will designate a party to confirm family status and promptly report their findings to the Board. If the Board determines that there is sufficient evidence of family status, the Lot will not be considered "leased" for purposes of this Declaration.

(e) **Investor-Owners.** The Investor-Owners' fourteen (14) Lots are considered "grandfathered in" and the current Investor-Owners of the fourteen (14) Lots may continue to lease the fourteen (14) Lots provided that the Investor-Owners of the fourteen (14) leased Lots abide by Article IX, Section 1 of the Declaration and properly register its Lot with the Association. Exhibit A lists the names and addresses of all Investor-Owners and the address(es) of their Lots. Investor-Owners are required to present the Board of Directors with a proposed lease prior to leasing their Lot. If there is any change in the current record owner(s) in the Buncombe County Registry of Deeds of any of the fourteen (14) leased Lots or if the Owners identified in Exhibit A's interest in the Lot passes through an Estate or Trust, the Investor-Owners' right to lease that particular Lot shall immediately terminate. The new record owner(s) of that particular Lot will not have these Investor-Owner rights and will have to present the lease to the Board of Directors, or their designated representative, for approval prior to entering into a lease of the Lot as previously explained. If the Lot is leased when the change in the record owner occurs, the Board of Directors can allow the current lessee to remain in the leased Lot

through the duration of the lease but the lease cannot be renewed without written approval from the Board of Directors.

All Investor-Owners shall register a leased Lot with the Association within fifteen (15) days of the recording of this Amendment with the Buncombe County Registry of Deeds. In order to properly register a rental/leased Lot with the Association, the Investor-Owner of a rental/leased Lot must provide the Association, through its Board of Directors, or their designated representative, the name(s) of the lessee(s) in the rental/leased Lot, a telephone number by which the lessee(s) may be contacted by the Association if the need arises and the term (duration) of the lease. All Investor-Owners shall register any and all changes in the status of a rental/leased Lot, including vacancies and new lessees, with the Association within fifteen (15) days.

(f) **Penalty.** The failure of any Owner to comply with any aspect of this Section shall be considered a violation of the Declaration. The Association may, after providing the Owner with notice and opportunity to be heard, impose fines up to one hundred dollars (\$100.00) per day pursuant to N.C.G.S. 47F-3-107.1 for such violation or terminate the Owner's leasing privileges.

IN WITNESS WHEREOF, the undersigned officers of Hadley Park Homeowners Association, Inc. hereby certify that the above amendment to the Declaration of Covenants, Conditions and Restrictions for Hadley Park was duly adopted by the Association and its membership in accordance with and pursuant to the Declaration of Covenants, Conditions and Restrictions for Hadley Park.

This 1st day of December, 2021.

HADLEY PARK HOMEOWNERS ASSOCIATION, INC.

by: D. Eric DesGarabedian
President **D. ERIC DESGARABEDIAN**

Attest: Jays M. Rieck
Secretary

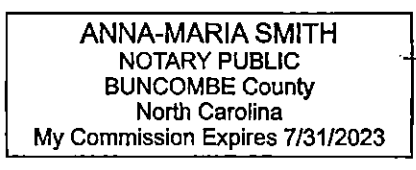
STATE OF NORTH CAROLINA
COUNTY OF Buncombe

I Anna-Maria Smith, Notary Public for said County and State, certify that D. Eric DesGarabedian personally came before me this day and acknowledged that he is Secretary of Hadley Park Homeowners Association, Inc., a nonprofit

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 and attested by himself as its Secretary.

Witness my hand and official seal, this the 1st day of December, 2021.

(SEAL)



Anna-Maria Smith

Notary Public

My commission expires 7/31/2023.

Exhibit AInvestor Owners

<u>Lot No.</u>	<u>Lot Address</u>	<u>Lot Owner(s)</u>
22	38 Summer Meadow Road	Paul Blair
37	7 Hadley Park Way	John Dahl and Holly Dahl
31	45 Summer Meadow Road	John Dahl and Holly Dahl
6	9 Summer Meadow Road	Edmond Ferreria and Jo Ann Ferreria
19	28 Summer Meadow Road	Rebecca Greene
20	32 Summer Meadow Road	Felix Iheanacho
3	8 Hadley Park Way	Mariposa Bayos, LLC
9	3 Summer Meadow Road	Mariposa Bayos, LLC
52	9 Briar Creek Way	Robert McDowell and Teresa McDowell
59	7 Thornwood Court	June Owen
25	46 Summer Meadow Road	Dale Richards and Elsa Godoy-Richards
48	21 Hollow Crest Way	P. Michelle Rippon
54	8 Briar Creek Way	Gregory Smith
40	1 Hollow Crest Way	Pamela Tripp