

This instrument prepared by:

Eryn M. McConnell, Esquire  
WEAN & MALCHOW, P.A.  
646 East Colonial Drive  
Orlando, Florida 32803

CFN 2020177399, OR BK 8828 PAGE 129  
Recorded 08/18/2020 at 01:25 PM, Scott Ellis, Clerk of  
Courts, Brevard County  
# Pgs:11

11

**CERTIFICATE OF APPROVAL  
OF THE PROPOSED AMENDMENTS TO THE DECLARATION  
OF CONDOMINIUM OF WHITLEY BAY, A CONDOMINIUM,  
THE PROPOSED AMENDMENTS TO THE ARTICLES OF INCORPORATION  
OF WHITLEY BAY CONDOMINIUM ASSOCIATION, INC. AND  
THE PROPOSED AMENDMENTS TO THE BY-LAWS  
OF WHITLEY BAY CONDOMINIUM ASSOCIATION, INC.**

The undersigned authorities hereby certify that the members of Whitley Bay Condominium Association, Inc. ("Condominium") have duly adopted the attached amendments to the Declaration of Condominium of Whitley Bay, A Condominium ("Declaration") as originally recorded in the Public Records of Brevard County at O.R. Book 5163, Page 2334, and subsequently amended at O.R. Book 5236, Page 1552 et seq., and O.R. Book 6344, Page 528 et seq., of the Official Records of Brevard County, Florida.

The attached amendments were approved in accordance with Section 617.0701(4), Fla. Stat., and Article XIII of the Declaration, by the affirmative vote of fifty-one (51) of the sixty-four (64) total units representing at least seventy-five (75%) percent of the total units in the condominium. Such approvals were obtained from members who executed a written consent without a meeting, accumulated between May 31, 2020 and June 24, 2020.

In addition, the undersigned authorities hereby certify that the members of the Condominium have duly adopted the attached amendments to the Articles of Incorporation of Whitley Bay Condominium Association, Inc. ("Articles") as originally recorded in the Public Records of Brevard County at O.R. Book 5163, Page 2394 et seq., of the Official Records of Brevard County, Florida.

The attached amendments were approved in accordance with Article XII of the Articles by an affirmative vote of fifty (50) of the sixty-four (64) total units representing at least seventy-five percent (75%) of the total units in the condominium, who executed a written consent without a meeting, accumulated between May 31, 2020 and June 24, 2020.

Lastly, the undersigned authorities hereby certify that the members of the Condominium have duly adopted the attached amendments to the By-Laws of Whitley Bay Condominium Association, Inc. ("By-Laws") as originally recorded in the Public Records of Brevard County at O.R. Book 5163, Page 2403 et seq., of the Official Records of Brevard County, Florida.

The attached By-Laws were approved in accordance with Article 8, Section 8(C) of the By-Laws, by an affirmative vote of fifty (50) of the sixty-four (64) total units representing at least seventy-five percent (75%) of the total units in the condominium, who executed a written consent without a meeting, accumulated between May 31, 2020 and June 24, 2020.

Witness this 30 day of July, 2020.

WHITLEY BAY CONDOMINIUM ASSOCIATION, INC.  
"ASSOCIATION"

By H Stanley Bowers  
H. Stanley Bowers, President

STATE OF FLORIDA :  
COUNTY OF BREVARD :

The foregoing instrument was acknowledged before me by means of  physical presence or \_\_\_\_\_ online notarization, this 30 day of July, 2020, by H. Stanley Bowers, as President of Whitley Bay Condominium Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

Michelle Davis  
(SIGN)

My Commission Expires:

Michelle Davis  
(PRINT)

Notary Public, State of Florida at Large



**MICHELLE DAVIS**  
Commission # GG 944601  
Expires January 21, 2024  
Bonded Thru Budget Notary Services

Witness this 4<sup>th</sup> day of August, 2020.

ATTEST:

  
Frank Sullivan, Secretary

STATE OF FLORIDA :  
COUNTY OF BREVARD :

The foregoing instrument was acknowledged before me by means of  physical presence or \_\_\_\_\_ online notarization, this 4 day of August, 2020, by Frank Sullivan, as Secretary of Whitley Bay Condominium Association, Inc., a Florida not-for-profit corporation, on behalf of the corporation. He is personally known to me or has produced \_\_\_\_\_ as identification.

  
(SIGN)

My Commission Expires:

Michelle Davis  
(PRINT)

Notary Public, State of Florida at Large



**MICHELLE DAVIS**  
Commission # GG 944601  
Expires January 21, 2024  
Bonded Thru Budget Notary Services

**PROPOSED AMENDMENTS TO THE  
DECLARATION OF CONDOMINIUM  
OF WHITLEY BAY, A CONDOMINIUM**

Proposed additions shown in **bold underlining**

Proposed deletions shown in ~~strikeouts~~

Omitted but unaffected provisions are represented by \* \* \*

\* \* \*

ARTICLE XIII  
AMENDMENT OF DECLARATION

These restrictions, reservations, covenants, conditions and easements may be modified or amended by recording such modifications in the Public Records of Brevard County, Florida, only after approval by the owners of at least ~~seventy-five (75%)~~ **fifty-one (51%)** percent of the total units in the condominium (i.e. at least ~~48~~ **33** of the 64 unit owners must vote for the modification or amendment). No amendment to this Declaration shall be adopted which would operate to materially affect the validity or priority of any mortgage held by an institutional first mortgagee or which would alter, amend or modify, in any manner whatsoever, the rights, powers, interests or privileges granted and reserved herein in favor of any institutional first mortgagee or in favor of the Developer without the consent of all such mortgagees or the Developer, as the case may be, or as otherwise required by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation which consent may not be unreasonably withheld. There shall be no amendment adopted altering the share of ownership in the common elements or surplus, or altering the share of common expenses, except by the unanimous vote of all members in the Association and by their respective institutional first mortgagees.

~~Notwithstanding anything to the contrary contained in this Declaration, the Developer expressly reserves the right to amend the Declaration so as to correct any legal description contained herein, which legal description or descriptions may have been incorrect by reason of a scrivener's or surveyor's error. The Developer may amend this Declaration as ~~aforedescribed by filing an amended legal description (or descriptions) as an amendment to the Declaration among the Public Records of Brevard County, Florida, which amendment (or amendments) shall expressly describe that legal description which is being corrected (by reference to the exhibit containing said legal description or otherwise), in addition to the corrected legal description. Such amendments need be executed and acknowledged only by the Developer and need not be approved by the Association, unit owners, lienors or mortgagees of units of the condominium whether or not elsewhere required for amendments.~~~~

As part and parcel of any such amendment as provided for in this subparagraph, however, ~~there shall be attached thereto an affidavit of the individual or individuals responsible for the original incorrect legal description, whether he be scrivener or surveyor, which affidavit shall set forth (1) that said individual made an error in the legal description, (2) that the error is corrected by the description contained in the amendment, and (3) that it was the intent at the time of the incorrect original legal description to make that description such as is contained in the new amendment. In the event the party responsible for the original incorrect legal description has died, or is not available, then in that event, any other party having personal knowledge of the incorrect legal description by reason of the scrivener's or surveyor's error may execute the required affidavit for the amendment provided herein.~~ Any amendment subject to Section 718.110(4), Florida Statutes shall be approved by a majority of the voting interests of the condominium and all record owners of liens on the unit.

Article XXXII Mediation, Arbitration and Litigation shall not be amended or altered, in whole or in part, without the prior approval of at least seventy-five (75%) percent of the entire membership of the Board of Directors and at least ~~seventy-five (75%)~~ **fifty-one (51%)** percent of the total units in the condominium (i.e. at least ~~48~~ **33** of the 64 unit owners must vote for the modification or amendment).

~~Pursuant to Section 718.110(2), Florida Statutes, the Developer may make amendments to this Declaration without consent of the unit owners which shall be limited to matters other than those under Sections 718.110(4) and (8), Florida Statutes. In the event it shall appear that there is an error or omission in this Declaration or exhibits thereto, then and in that event the Association may correct such error and/or omission by an amendment to this Declaration in the manner hereinafter described to effectuate an amendment for the purpose of curing defects, errors or omissions. Such an amendment shall not require a vote of approval as provided above but shall require a vote in the following manner:~~

~~(a) Notice of the subject matter of a proposed amendment to cure a defect, error or omission shall be included in the notice of any meeting at which such proposed amendment is to be considered.~~

~~(b) A resolution for the adoption of such a proposed amendment may be proposed by either the Board of Administration of the Association or by the members of the Association, and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing delivered to the secretary at or prior to the meeting. Except as elsewhere provided, such approvals must be either by:~~

~~(i) Not less than thirty-three and one-third (33 1/3%) percent of the Board of~~

~~Directors and by not less than ten (10%) percent of the votes of the entire membership of the condominium; or~~

~~(ii) Not less than twenty-five (25%) percent of the votes of the entire membership of the Association; or~~

~~(iii) In the alternative, an amendment may be made by an agreement signed and acknowledged by all unit owners in the manner required for the execution of a deed, and such amendment shall be effective when recorded in the Public Records of Brevard County, Florida.~~

~~(c) The foregoing provisions relative to amendments for defects, errors or omissions are in accordance with and pursuant to Section 718.110(1), Florida Statutes.~~

~~(d) That the amendment made pursuant to this paragraph need only be executed and acknowledged by the Developer or the Association and by no other parties whatsoever.~~

~~Notwithstanding anything to the contrary contained in this Declaration, the Developer reserves the right to change the interior designs and arrangement of all units and to alter the boundaries between units, as long as the Developer owns the units so altered; however, no such change shall increase the number of units nor alter the boundaries of the common elements, except the party wall between any units, without amendment of this Declaration in the manner hereinbefore set forth. If the Developer shall make any changes in units, as provided in this paragraph, such changes shall be reflected by an amendment to this Declaration with a survey attached reflecting such authorized alteration of units, and said amendment need only be executed and acknowledged by the Developer, any holders of institutional mortgages encumbering the altered units and if the amendment is subject to Section 718.110(4), Florida Statutes, it shall be approved by a majority of the voting interests of the condominium. The survey shall be certified in the manner required by the Condominium Act. If more than one (1) unit is concerned, the Developer shall not apportion between the units the shares in the common elements, common expenses and common surplus of the units concerned and such shares of common elements, common expenses and common surplus shall remain unchanged in the amendment of this Declaration unless all unit owners approve the amendment changing the shares.~~

No provision of the Declaration shall be revised or amended by reference to its title or number only. Proposals to amend existing provisions of the Declaration shall contain the full text of the provision to be amended; new words shall be inserted in the text underlined; and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the

proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language:

Substantial rewording of Declaration. "See provision ... for present text." Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

Invalidation of any one (1) or more of these restrictions, reservations, covenants, conditions and easements, or any provision contained in this Declaration, or in a conveyance of unit by the Developer, by judgment, court order, or law, shall in no way affect any of the other provisions which shall remain in full force and effect.

In the event that any court should hereafter determine that any provision, as originally drafted herein, violates the rule against perpetuities or any other rule of law because of the duration of the period involved, the period specified in this Declaration shall not thereby become invalid, but instead shall be reduced to the maximum period allowed under such rule of law, and for such purpose, the measuring life shall be that of the youngest incorporator of the Association.

These restrictions, reservations, covenants, conditions and easements shall be binding upon and inure to the benefit of all property owners and their grantees, heirs, personal representatives, successors and assigns, and all parties claiming by, through or under any member.

\* \* \*

Prepared by: Eryn M. McConnell

Dated: May 13, 2020

**PROPOSED AMENDMENTS TO THE  
ARTICLES OF INCORPORATION  
OF WHITLEY BAY CONDOMINIUM ASSOCIATION, INC.**

Proposed additions shown in **bold underlining**

Proposed deletions shown in ~~strikeouts~~

Omitted but unaffected provisions are represented by \* \* \*

\* \* \*

ARTICLE XII  
AMENDMENTS

Any amendment or amendments to these Articles of Incorporation may be proposed by the Board of Administration of the Association acting upon a vote of the majority of the directors, or by the members of the Association owning a majority of the condominium units in the condominium, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to these Articles being proposed by said Board of Administration or members, such proposed amendment or amendments 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 meeting of the members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from the receipt by him of the proposed amendment or amendments, and it shall be the duty of the Secretary to give to each member written or printed notice of such meeting, stating the time and place of the meeting and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed or presented personally to each member not less than ~~ten (10)~~ **fourteen (14)** days nor more than thirty (30) days before the date set for such meeting. ~~If mailed, the notice of the membership meeting shall be sent by certified mail, return receipt requested, which mailing shall be deemed notice.~~ **Evidence of compliance with this 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association.** Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of such notice to such member. At such meeting, the amendment or amendments proposed must be approved by an affirmative vote of the Owners of at least ~~seventy five (75%)~~ **fifty-one (51%)** percent of the total number of units in the condominium ( i.e. ~~48~~ **33** of 64 of the Unit Owners must vote for the amendment) in order for such amendment or amendments to become effective. Thereupon, such amendment or amendments of these articles shall be transcribed and certified in such form as may be necessary to register the same in the office of the



Secretary of State of Florida; and upon the registration of such amendment or amendments with said Secretary of State, a certified copy thereof shall be recorded in the Public Records of Brevard County, Florida, within ten (10) days from the date on which the same are so registered. No amendment is valid until it is recorded in the Public Records. At any meeting held to consider such amendment or amendments of these articles, 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.

Notwithstanding the foregoing provisions of this Article XII, no amendment or amendments to these articles which shall abridge, amend or alter the right of the Developer to designate and select members of each Board of Administration of the Association, as provided in Article VII hereof, may be adopted or become effective without the prior consent of the Developer.

\* \* \*

Prepared by: Eryn M. McConnell  
Dated: May 13, 2020

**PROPOSED AMENDMENTS TO THE  
BY-LAWS  
OF WHITLEY BAY CONDOMINIUM ASSOCIATION, INC.**

Proposed additions shown in **bold underlining**

Proposed deletions shown in ~~strikeouts~~

Omitted but unaffected provisions are represented by \* \* \*

\* \* \*

**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 Administration of the Association acting upon vote of a majority of the Directors, or by ten (10%) percent of the voting interests of the Association, whether meeting as members or by instrument in writing signed by them.

B. Upon any amendment or amendments to these By-Laws being proposed by said Board of Administration or members, such proposed amendment or amendments 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 Administration of the Association and the membership for a date not sooner than twenty (20) days or later than sixty (60) days from receipt by such officer of the proposed amendment or amendments, and it shall be the duty of the Secretary to give each member written or printed 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 or amendments to become effective, the same must be approved by an affirmative vote of a majority of (3 of 5 members) the entire membership of the Board of Administration and by an affirmative vote of the Owners of at least ~~seventy-five (75%)~~ **fifty-one (51%)** percent of the total number of units in the condominium (i.e. ~~48~~ **33** of the 64 Unit Owners must vote for the amendment). No By-Law shall be revised or amended by reference to its title or number only. Proposals to amend existing By-Laws shall contain the full text of the By-Laws to be amended; new words shall be inserted in the text and underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder rather than assist the

understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but instead a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-Law. See By-Law ... for present text." Thereupon, such amendment or amendments to these By-Laws shall be transcribed, certified by the President and Secretary of the Association, and a copy thereof shall be recorded in the Public Records of Brevard County, Florida, within ten (10) days from the date on which any amendment or amendments have been affirmatively approved by the Directors and members. No amendment to the By-Laws is valid unless recorded with identification on the first page thereof of the book and page of the Public Records of Brevard County, Florida. Non-material errors or omissions in the by-law process shall not invalidate an otherwise properly promulgated amendment.

D. At any meeting held to consider such amendment or amendments 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.

\* \* \*

Prepared by: Eryn M. McConnell  
Dated: May 13, 2020

# BrevardClerk. US

Scott Ellis, Clerk of Court



700 South Park Avenue, Bldg. B  
P.O. Box 2767  
Titusville, FL 32781-2767  
(321) 637-2006

Transaction #: 2669360  
Receipt #: 62551115  
Cashier Date: 08/18/2020 01:25:38 PM  
Cashier Branch: Parkway

Print Date:  
08/18/2020 01:25:42 PM

CUSTOMER INFORMATION	TRANSACTION INFORMATION		PAYMENT SUMMARY	
WHITLEY BAY CONDOMINIUM 2560 PALM LAKE DR MERRITT ISLAND, FL 32952	Date Received:	08/18/2020	Total Fees	\$95.00
	Source Code:	Parkway	Total Payments	\$95.00
	Return Code:	Mail (U.S. Postal Service)	Balance Due:	\$0.00
	Trans Type:	Recording		

### 1 Payments

<b>CHECK #3010</b>	\$95.00
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### 1 Recorded Items

<b>CONDOMINIUM</b>	BK/PG: 8828/129 CFN: 2020177399 Date: 08/18/2020 01:25:37 PM
From: Tax	
Recording @ 1st=\$10 Add'l=\$8.50 ea.	11 \$95.00

### 1 Miscellaneous Items

<b>AGENT TRANSMITTAL</b>
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