

From: Esther Manheimer <emanheimer@vwlawfirm.com>

Sent: Monday, April 3, 2017 9:41 PM

To: Andrea Folkertsma

Cc: Sandy Holder

Subject: Bear Paw

Andrea – on the question of Bylaw amendments and the necessary vote, I have reviewed the current Bylaws and the amendment provision set out in Article IX which states that in order to amend the Bylaws a vote of 75% of Lot owners “voting on such amendments” is required. The Bylaws provide in Article VI that the Bylaws are to comply with Chapter 55A of the NC General Statutes, which afford great latitude on how to amend Bylaws. It requires nothing more than a board vote but allows for a higher threshold should you desire one. I have attached the statute. The Bylaws’ amendment provision does not state whether the amendment must be considered by the entire membership or by a meeting of just the Board.

The Bylaws state that a quorum of **the full membership** consist of “those members in attendance”. In other words, there’s no minimum number of people required, just so long as at least one member attends. And that a “majority vote” is majority of those in attendance. But, your amendment provision requires a higher number than a majority, that being 75% of those voting. Therefore, **if you want to conservatively interpret the amendment provision**, you could have a specially called meeting of the **entire membership** (which the President can call) but only those that show up to the meeting need to vote, and 75% of those voting can approve amended bylaws.

You are required to mail the proposed amended Bylaws to the entire membership so it’s quite simple to include a specially called meeting notice of the entire membership.

The other way to look at this amendment provision is to read that it requires 75% of a quorum of the Board to vote to amend. A quorum of the Board is a majority of the Board members.

Let me know if you have any questions. I would be glad to help with the logistics.

Esther Manheimer

Attorney

The Van Winkle Law Firm

11 North Market Street

Asheville, NC 28801

P.O. Box 7376

Asheville, NC 28802-7376

[\(828\) 258-2991](tel:(828)258-2991)

[\(828\) 257-2767](tel:(828)257-2767) fax