

BY-LAWS OF BERKSHIRE-BY-THE-SEA CONDOMINIUM ASSOCIATION, INC.

A FLORIDA NON-PROFIT CORPORATION

**ARTICLE 1.
IDENTITY**

The following By-Laws shall govern the operation of the Condominium created by the Declaration of Condominium to which these By-Laws are attached.

The Association whose name appears at the end of this instrument is a Florida Corporation not for profit, organized and existing under the Laws of the State of Florida or the purpose of administering (but not exclusively unless so provided in the Association's Articles of Incorporation) the Condominium created by the Declaration of Condominium to which these By-Laws are attached.

Section 1. The office of the Association shall be at the Condominium property, or at such other place as may be subsequently designated by the Board of Directors of the Association.

Section 2. The Seal of the Corporation shall bear the name of the Corporation, the word "Florida", the words, "Corporation not for profit", and the year of incorporation.

Section 3. As used herein, the word, "Corporation", shall be the equivalent of "Association"; as defined in the Declaration of Condominium to which these By-Laws are attached. All other words, as used herein, shall have the same definitions as attributed to them in the Declaration of Condominium to which these By-Laws are attached.

**ARTICLE II.
MEMBERSHIP AND VOTING PROVISIONS**

Section 1. Membership in the Association shall be limited to Owners of the Condominium units in Condominiums wherein this Corporation has been designated the Association to operate and administer said Condominium by virtue of the Declaration of Condominium of said Condominium. Transfer of Unit Ownership, either voluntary or by operation of law, shall terminate membership in the Association, and said membership is to become vested in the transferee. If Unit Ownership is vested in more than one person, then all of the persons so owning said Unit shall be members eligible to hold office, attend meetings, etc., but, as hereinafter indicated, the vote of a Unit shall be cast by the "voting member". If Unit Ownership is vested in a Corporation, said Corporation may designate an individual officer or employee of the Corporation as its "voting member". Notwithstanding the foregoing, each Owner of Unit Weeks in a Condominium Unit committed to Interval Ownership shall be entitled to cast his share of the vote of the Unit in which he owns his Unit Weeks. "Unit committed to Interval Ownership" and "Interval Ownership" are defined in the Declaration of Condominium.

Section 2. Voting:

(a) The Owner(s) of each Condominium Unit shall be entitled to one (1) vote. If a Condominium Unit Owner owns more than one (1) Unit, he shall be entitled to one (1) vote for each unit owned. The vote of a Condominium Unit shall not be divisible. Notwithstanding the foregoing, each Owner of Unit Weeks in a Unit committed to Interval Ownership shall be entitled to 1/51 of the total vote assigned to the unit in which he owns his Unit Weeks for each Unit Week owned. The association shall not have a vote for any Unit Weeks conveyed to it.

(b) A majority of the Unit Owners' total votes shall decide any question unless the Declaration of Condominium, By-Laws or Articles of Incorporation of the Association provide otherwise.

Section 3. Quorum: Unless otherwise provided in these By-Laws, the presence in person or by proxy of a majority of the Unit Owners' total votes shall constitute a quorum.

Section 4. Proxies: Votes may be cast in person or by proxy. All proxies shall be in writing and signed by the person entitled to vote (as set forth below in Section 5,). Where a Unit is owned jointly by a husband and wife, and if they have not designated one of them as a voting member, a proxy must be signed by both husband and wife where a third person is designated.

Section 5. Designation of Voting Member: If a Condominium Unit is owned by more than one person, his right to vote shall be established by the recorded title to the Unit. If a Condominium Unit is owned by more than one (1) person, the person entitled to cast the vote for the Unit shall be designated in a Certificate, signed by all of the recorded Owners of the Unit and filed with the Secretary of the Association. If a Condominium Unit is owned by a Corporation, the officer or employee thereof entitled to cast the vote of the Unit for the Corporation shall be designated in a Certificate for this signed by the President or Vice-President, attested to by the or Assistant Secretary of the Corporation, and filed with the Secretary of the Association. The person designated in such Certificate who is entitled to cast the vote for a Unit shall be known as the "voting member". If such a Certificate is not on file with the Secretary of the Association for a Unit owned by more than one person or by a Corporation, the vote of the Unit concerned shall not be considered in determining the requirement for a quorum, or for any purpose requiring the approval of a person entitled to cast the vote for the Unit, except if said Unit is owned by a husband and wife. Such Certificates shall be valid until revoked or until superseded by a subsequent Certificate, or until a change in the Ownership of the Unit concerned. If a Condominium Unit is owned jointly by a husband and wife the following three provisions are applicable thereto:

(a) They may, but they shall not be required to, designate a voting member.

(b) If they do not designate a voting member and if both are at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting. (As previously provided, the vote of a Unit is not divisible).

(c) Where they do not designate a voting member, and only one is present at a meeting, the person present may cast the Unit vote, just as though he or she owned the unit individually, and without establishing the concurrence of the absent person.

Section 6. Units Committed to Interval Ownership: Notwithstanding any other provisions in these By-laws, each Owner of Unit Weeks in a Unit committed to Interval Ownership shall be entitled to cast the fractional vote attributable to his Unit Weeks owned. In the case of a Unit committed to Interval Ownership, the provisions of Section 5, Designation of Voting Member, shall apply to each Unit Week owned.

ARTICLE III. MEETING OF MEMBERSHIP

Section 1. Place: All meetings of the Association membership shall be held at the Condominium(s) property, or at such other place and at such time as shall be designated by the Board of Directors of the Association and stated in the Notice of the meeting, and shall be open to all Unit Owners.

Section 2. Notices: It shall be the duty of the Secretary to mail or deliver a Notice of each annual or special meeting, stating the time and place thereof, to each Unit Owner of record at least fourteen (14) but not more than thirty (30) days prior to such meeting. Notice of any special meeting shall state the purpose thereof. All Notices shall be mailed to or served at the address of the Unit Owner as it appears on the books of the Association.

Section 3. Annual Meeting: The annual meeting shall be held in January of each year at a date, time and place to be determined by the Board for the purpose of electing Directors and transacting any other business authorized to be transacted by the members, provided, however, that if that day is a legal holiday, the meeting shall be held at the same hour on the next secular day following. At the annual meeting, the members shall elect by plurality vote - (cumulative voting prohibited), a Board of Directors, and shall transact such other business as may properly be brought before the meeting.

Section 4. Special Meetings: Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute, may be called by the President, and shall be called by the President or Secretary at the request, in writing, of a majority of the Board of Directors, or at the request, in writing, of voting members representing twenty-five percent (25%) of the members' total votes, which request shall state the purpose or purposes of the proposed meeting. Business transacted at all special meetings shall be confined to the objects stated in the Notice thereof.

Section 5. Waiver and Consents: Whenever the vote of members at a meeting is required or permitted by any provision of these By-Laws to be taken in connection with any action of the Association, the meeting and vote of members may be dispensed with if not less than a majority of the members' who would have been entitled to vote upon the action if such meeting were held, shall consent in writing to such action being taken; however, notice of such action shall be given to all members, unless all members approve such action.

Section 6. Adjourned Meeting: If any meeting of members cannot be organized because a quorum of voting members is not present, either in person or by proxy, the meeting may be adjourned from time to time until a quorum is present.

Section 7. Approval or Disapproval: Approval or disapproval of a Unit owner upon any matter, whether or not the subject of an Association meeting, shall be by the voting members provided, however, that where a unit is owned jointly by a husband and wife, and they have not designated one of them as a voting member, their joint approval or disapproval shall be required where they are both present, or in the event only one is present, the person present may cast the vote without establishing the concurrence of the absent person.

Section 8. The Management Firm: The Management Firm, as long as any Management Agreement remains in effect, shall be entitled to attend Association's meetings, and it may designate such person(s) as it desires to attend such meetings on its behalf.

ARTICLE IV. DIRECTORS

Section 1. Number, Term, and Qualifications: The affairs of the Association shall be governed by a Board of Directors composed of not less than three (3) nor more than seven (7) persons, as is determined from time to time by the members. All Directors, except those designated by the Developer, shall be members of the Association. All officers of a Corporate Unit Owner shall be deemed to be members of the Association so as to qualify as a Director herein. The term of each Director's service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified, or until he is removed in the manner provided in Section 3 below.

Section 2. First Board of Directors:

A. The first Board of Directors of the Association who shall hold office and serve until their successors have been elected and qualified, shall consist of the following:

James M. Fox
Andre Noiseux
Evelyn Fox

B. The organizational meeting of a newly elected Board of Directors of the Association shall be held within ten days of their election, at such place and time 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.

Section 3. Removal of Directors: Subject to the provisions of Section 718.301, any member of the Board of Administration may be recalled and removed from office with or without cause by the vote or agreement in writing by the majority of all unit owners. A special meeting of the unit owners to recall a member or members of the Board of Administration may be called by 10% of the unit owners giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting.

Section 4. Vacancies on Directorate: If the office of any Director or Directors becomes vacant by resignation, retirement, disqualification, removal from office or otherwise, a majority of the remaining Directors, though less than a quorum, shall choose a successor or successors, who shall hold office for the balance of the unexpired term with respect to which such vacancy occurred. The election held for the purpose of filling said vacancy may be held at any regular or special meeting of the Board of Directors.

Section 5. Disqualification and Resignation of Directors: Any Director may resign at any time by sending a written Notice of such resignation to the office of the Corporation, delivered to the Secretary. Unless otherwise specified therein, such resignation shall take effect upon receipt thereof by the Secretary. Commencing with the Directors elected at such first annual meeting of the membership, the transfer of title of his Unit by a Director shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors. No member shall continue to serve on the Board more than thirty (30) days delinquent in the payment of any assessment or maintenance fee and said delinquency shall automatically constitute a resignation, effective when such resignation is accepted by the Board of Directors.

Section 6. Regular Meetings: The Board of Directors may establish a schedule of regular meetings to be held at such time and place as the Board of Directors may designate. Notice of such regular meetings shall nevertheless, be given to each Director personally or by mail, telephone or telegraph at least five days prior to the day named for such meeting. All meetings of the Board of Directors, including special meetings in accordance with Section 7 below, shall be open to all Unit Owners.

Section 7. Special Meetings: Special meetings of the Board of Directors may be called by the President, and in his absence, by the Vice-President, or by the majority of the members of the Board of Directors, by giving five (5) days' notice, in writing, to all the members of the Board of Directors of the time and place of said meeting. All Notices of special meetings shall state the purpose of the meeting.

Section 8. Director's Waiver of Notice: Before or at any meeting of the Board of Directors, any Director may waive Notice of such meeting and such waiver shall be deemed equivalent to the giving of Notice. Attendance by a Director at any meeting of the Board shall be a waiver of Notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no Notice shall be required and any business may be transacted at such meeting.

Section 9. Quorum: At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at such meetings at which a quorum is present, shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At each such adjourned meeting, any business which 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.

Section 10. Compensation: The Directors' fees, if any, shall be determined by the voting members.

Section 11. Developer's Selection of Directors: Subject to the provisions of Section 718.301 of the Condominium Act, the Developer shall have the right to designate the Directors who need not be Owners of Units or Unit Weeks in the Condominium, and said Directors may not be removed by members of the Association, as elsewhere provided herein; and where a vacancy occurs for any reason whatsoever, the vacancy shall be filled by the person designated by the Developer.

Section 12. The Management Firm: The Management Firm, as long as any Management Agreement remains in effect, shall be entitled to Notice of all Directors' meetings and shall be entitled to attend the Directors' meetings and it may designate such person(s) as it desires to attend such meetings on its behalf.

Section 13. Powers and Duties: The Board of Directors of the Association shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not by law or by the Declaration of Condominium, this Association Articles of Incorporation, or these By-Laws, directed to be exercised and done by Unit Owners. These powers shall specifically include, but shall not be limited to the following:

- (a) To exercise all powers specifically set forth in the Declaration of Condominium, this Association's Articles of Incorporation, in these By-Laws, and in the Condominium Act, and all powers incidental thereto.
- (b) To make and determine assessments and maintenance fees, and use and expend the assessments and maintenance fees, to carry out the purposes and powers of the association.
- (c) To employ, dismiss and control the personnel necessary for the maintenance and operation of the Condominium, and of the common areas and facilities including the right and power to employ attorneys, accountants, contractors, and other professionals as the need arises.
- (d) To make and amend regulations respecting the operation and use of the common elements and Condominium property, and the use and maintenance of the Condominium Units therein.
- (e) To contract for the management of the Condominium. To contract for the management or operation of portions of the common elements susceptible to the separate management or operation thereof, and to lease or concession such portions.
- (f) The further improvement of the Condominium property, both real and personal and the right to purchase realty and items of furniture, furnishings, fixtures and equipment for the foregoing, and the right to acquire and enter into Agreements pursuant to Section 718.114 of the Condominium Act, and as amended, subject to the provisions of the applicable Declaration of Condominium, this Association's Articles of Incorporation and these By-Laws.
- (g) Designate one or more committees which, to the extent provided in the resolution designating said committee, shall have the powers of the Board of Directors in the management and affairs and business of the Association. Such committee shall consist of at least three (3) members of the Association. The committee or committees shall have such name or names as may be determined from time to time by the Board of Directors, and said committee(s) shall keep regular Minutes of their proceedings and report the same to the Board of Directors, as required. The foregoing powers shall be exercised by the Board of Directors or its contractor or employees, subject only to approval by Unit Owners when such is specifically required.
- (h) To enter into and terminate Agreements with organizations providing Owners of Unit Weeks to trade their time periods with Owners of time periods at other resorts.

ARTICLE V.
OFFICERS

Section 1. Elective Officers: The principal officers of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors.

One person may not hold more than one of the aforementioned offices, except one person may be both Secretary and Treasurer. The President and Vice-President shall be members of the Board of Directors. Notwithstanding the foregoing, the restriction as to one person holding only one of the aforementioned offices of the President and Vice-President being members of the Board of Directors shall not apply while the Association is under the control of the Developer, the control being the right of the Developer to select majority of the Board of Directors in accordance with Section 718.301 of the Condominium Act.

Section 2. Election: The officers of the Association designated in Section 1 above shall be elected annually by the Board of Directors at the organizational meeting of each new Board following the meeting of the members.

Section 3. Appointive Officers: The Board may appoint Assistant Secretaries and Assistant Treasurers, and such other officers as the Board of Directors deems necessary.

Section 4. Term: The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed at any time, with or without cause, by the Board of Directors, provided however, that no officer shall be removed except by the affirmative vote for removal by a majority of the whole Board of Directors (e.g. if the Board of Directors is composed of five persons, then three of said Directors must vote for removal). If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors.

Section 5. The President: He shall be the chief executive officer of the Association he shall preside at all meetings of the Unit Owners and of the Board of Directors. He shall have executive powers and general supervision over the affairs of the Association and other officers. He shall sign all written contracts to perform all of the duties incident to his office and which may be delegated to him from time to time by the Board of Directors.

Section 6. The Vice-President: He shall perform all of the duties of the President in his absence, and such other duties as may be required of him from time to time by the Board of Directors of the Association.

Section 7. The Secretary: He shall issue Notices of all Board of Directors' meetings and all meetings of the Unit Owners; he shall attend and keep the Minutes of same; he shall have charge of all of the Association's books, records and papers, except those kept by the Treasurer. The Assistant Secretary shall perform the duties of the Secretary when the Secretary is absent.

Section 8. The Treasurer:

- (a) He shall have custody of the Association's funds and securities, except the funds payable to any Management Firm, and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association and shall deposit all monies and other valuable effects in the name of and to the credit of the Association, in such depositories as may be designated from time to time by the Board of Directors. The books shall reflect an account for each Unit in the manner required by Section 718.111(7)(b) of the Condominium Act.
- (b) He shall disburse the funds of the Association as may be ordered by the Board of Directors in accordance with these By-Laws, making proper vouchers for such disbursements, and shall render to the President and Board of Directors at the regular meetings of the Board of Directors, or whenever they may require it, an account of all of his transactions as the Treasurer and of the financial condition of the Association.

- (c) He shall collect the assessments and maintenance fees and shall promptly report the status of collections and of all delinquencies to the Board of Directors.
- (d) He shall give status reports to potential transferees on which reports the transferees may rely.
- (e) The Assistant Treasurer shall perform the duties of the Treasurer when the Treasurer is absent.
- (f) The duties of the Treasurer may be fulfilled by a Management Firm employed by the Association, and said Management Firm shall fulfill the duties of the Treasurer, and shall have custody of such books of the Association as the Board of Directors determines in their sole discretion and the foregoing may include any books required to be kept by the Secretary of the Association.

ARTICLE VI.
FINANCES, ASSESSMENTS AND MAINTENANCE FEES

Section 1. Depositories: The funds of the Association shall be deposited in such banks and depositories as may be determined by the Board of Directors from time to time upon resolutions approved by the Board of Directors, and shall be withdrawn only upon checks and demands for money signed by such officer or officers of the Association as may be designated by the Board of Directors. Obligations of the Association shall be signed by at least two officers of the Association; provided, however, that the provisions of any Management Agreement between the Association and a Management Firm relative to the subject matter in this Section shall supersede the provisions hereof.

Section 2. Fidelity Bonds: The Treasurer and all officers who are authorized to sign checks and all officers and employees of the Association, and any contractor handling or responsible for Association funds shall be bonded in such amount as may be determined by the Board of Directors. The premium on such Bonds shall be paid by the Association. The Bond shall be in an amount sufficient to equal the monies and individual handles or has control of via a signatory or a bank account or other depository account.

Section 3. Fiscal Year: The fiscal year for the Association shall begin on the first day of January of each year, provided however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America, at such time as the Board of Directors deems it advisable.

Section 4. Determination of Assessments:

- (a) The Board of Directors of the Association shall fix and determine from time to time, the sum or sums necessary and adequate for the common expenses of the Condominium. Common expenses shall include expenses for the operation, maintenance, repair or replacement of the common elements, costs of carrying out the powers and duties of the Association, all insurance premiums and expenses relating thereto, including fire insurance and extended coverage, and any other expenses designated as common expenses from time to time by the Board of Directors of the Association, or under the provisions of the Declaration of Condominium to which these By-Laws are attached. The Board of Directors is specifically empowered, on behalf of the Association to make and collect assessments and to lease, maintain, repair and replace the common elements and limited common elements of the Condominium. Funds for the payment of common expenses shall be assessed against the Unit Owners in the proportions or percentages of sharing common expenses, as provided in the Declaration. Regular assessments shall be due and payable monthly on the first day of each month. Maintenance fees for Units committed to Interval Ownership shall be payable quarterly and shall be due on the first day of January, April, July and October in advance, unless otherwise ordered by the Board of Directors. Special assessments, should such be required by the Board of Directors, shall be levied in the same manner as hereinbefore provided for regular assessments, and shall be payable in the manner determined by the Board of Directors.

- (b) A copy of the proposed annual budget of common expenses shall be mailed to the Unit Owners not less than thirty (30) days prior to the meeting at which the budget will be considered, together with a Notice of that meeting. The Unit Owners shall be given written notice of the time and place at which the meeting of the Board of Directors shall be held to consider proposed annual budget of common expenses, and such meeting shall be open to the Unit Owners. If a budget is adopted by the Board of Directors which requires assessment against the Unit Owners in any fiscal or calendar year exceeding 115% of such assessments for the preceding year, upon written application of 10% of the Unit Owners, a special meeting of the Unit Owners shall be held upon no less than ten (10) days written notice to each Unit Owner, but within thirty (30) days of the delivery of such application to the Board of Directors or any member thereof, at which special meeting Unit Owners may consider and enact a revision of the Budget, or recall any and all members of the Board of Directors and elect their successors. In either case, the revision of the budget or the recall of any and all members of the Board of Directors shall require a vote of not less than majority of the whole number of votes of all Unit Owners. The Board of Directors may in any event propose a budget to the Unit Owners at a meeting of members or by writing, and if such budget or proposed budget be approved by the Unit Owners at the meeting, or by a majority of their whole number by a writing, such budget shall not thereafter be re-examined by the Unit Owners in the manner hereinabove set forth nor shall the Board of Directors be recalled under the terms of this Section provided that this shall not prevent the recall of the Board of Directors with or without cause pursuant to Article IV, Section 3 of these Bylaws or as may be permitted by law. In determining whether assessments exceed 115% of similar assessments in prior years, there shall be excluded in the computation, any provision for reasonable reserves made by the Board of Directors in respect of repair or replacement of the Condominium property or in respect of anticipated expenses by the Condominium Association which are not anticipated to be incurred on a regular or annual basis, and there shall be excluded from such computation, assessment for betterments to the Condominium property if these By-Laws so provide or allow the establishment of reserves, or assessments for betterments to be imposed by the Board of Directors, provided, however, that so long as the Developer is in control of the Board of Directors, the Board shall impose an assessment for a year greater than 115% of the prior fiscal calendar year's assessment without approval of a majority of the Unit Owners. When the Board of Directors has determined the amount of any assessment, the Treasurer of the Association shall mail or present to each Unit Owner a statement of said Unit Owner's assessment. All assessments shall be payable to the Treasurer of the Association and, upon request, said Treasurer shall give a receipt for each payment made to him.

Section 5. Determination of Maintenance Fee:

- (a) The Board of Directors of the Association shall fix and determine from time to time, the sums necessary and adequate for the maintenance fee on Condominium Units committed to Interval Ownership. The maintenance fee on such Units shall include the items specified in the Declaration of Condominium to which these By-Laws are attached.
- (b) When the Board of Directors has determined the amount of any maintenance fee, the Treasurer of the Association shall mail or present to each Owner of the Unit Weeks within all Units committed to Interval Ownership a statement of said maintenance fee. All maintenance fees shall be payable to the Treasurer of the Association and, upon receipt, said Treasurer shall give a receipt for each payment made to him, if requested by the Unit Owners.

Section 6. Application of Payments and Co-Mingling of Funds: All sums collected by the Association from assessments and maintenance fees may be co-mingled in a single fund or divided into more than one fund, as determined by the Board of Directors of the Association. All assessment payments and maintenance fees by a Unit Owner shall be applied as to interest, delinquencies, costs and attorney's fees, other charges, expenses and advances provided herein and in the Declaration of Condominium and general or special assessments, in such manner and amounts as the Board of Directors determines in its sole discretion.

Section 7. Acceleration of Assessment Installments Upon Default: If a Unit Owner shall be in default in the payment of an installment upon any assessment or maintenance fee, the Board of Directors may accelerate the remaining monthly installments for the fiscal year upon Notice thereof to the Unit Owner and, thereupon, the unpaid balance of the assessment or maintenance fee, shall become due upon the date stated in the Notice, but not less than fifteen (15) days after delivery of or the mailing of such Notice to the Unit Owner.

Section 8. Audits: An audit of the accounts of the Association shall be made annually. Said audits shall be prepared by such accountant as the Board of Directors determines, and a copy of said report shall be available to the members of the Association in the office of said Association and with the Treasurer of the Association. Such report shall be available not later than three (3) months after the end of the year for which the report is made.

Section 9. Application of Surplus: Any payments or receipts to the Association, whether from Unit Owners or otherwise, paid during the year in excess of the operating expenses and other common expenses of the Association shall be kept by the Association and applied against the Association's expenses for the following year.

ARTICLE VII. ADDITIONS OR ALTERATIONS

There shall be no additions or alterations to the common elements or limited common elements of the Condominium(s) which this Association operates and maintains except as specifically provided or in said Condominiums Declaration of Condominium.

ARTICLE VIII. COMPLIANCE AND DEFAULT

Section 1. Violations: In the event of a violation (other than the nonpayment of an assessment or maintenance fee) by the Unit Owner in any of the revisions of the Declaration of Condominium, of these By-Laws, or of the applicable portions of the Condominium Act, the Association, by direction of its Board of Directors, may notify the Unit Owner by written notice of said breach, transmitted by mail, and if such violation shall continue for a period of seven (7) days from date of Notice, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional and inexcusable and material breach of the Declaration of the By-Laws, or of the pertinent provisions of the Condominium Act, and the Association may then, at its option, have the following elections:

- (a) An action at law to recover for its damage on behalf of the Association, or on behalf of the other Unit Owners
- (b) An action in equity to enforce performance on the part of the Unit Owner; or
- (c) An action in equity for such equitable relief as may be necessary under the circumstances, including injunctive relief.

Any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the Unit Owner as a specific item, which shall be a lien against said Owners Unit or Unit Week with the same force and effect as if the charge were part of a common expense

Section 2. Negligence or Carelessness of Unit Owner, Etc.: All Unit owners shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by any insurance company of its rights of subrogation. The expense for any maintenance, repair or replacement required, as provided in this Section, shall be charged to said Unit Owner as a specific item which shall be a lien against said Owner's Unit or Unit Week with the same force and effect as if the charge were a part of the common expenses.

Section 3. Cost and Attorneys' Fees: In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court.

Section 4. No Waiver of Rights: In any proceeding arising because of an alleged default by a Unit Owner, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court.

Section 5. Election of Remedies: All rights, remedies and privileges granted to the Association or Unit Owner, pursuant to any terms, provisions, covenants or conditions of the Condominium Documents, shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional right, remedies, or privileges as may be granted to such other party by Condominium documents, or at law or in equity.

Section 6. Units Committed to Interval Ownership: Any liens or sanctions against an Owner of Unit Weeks in a Unit committed to Interval Ownership for an alleged default as set forth in this Article VII shall be limited to the Unit Weeks owned by such Owner and shall be of no force and effect as to any other Unit Weeks or Owner thereof. The term "Unit Owner" as used throughout this Article shall be deemed to include Owners of Unit Weeks in Units committed to Interval Ownership.

ARTICLE IX.

ACQUISITION OF UNITS OR UNIT WEEKS ON FORECLOSURE

Section 1. Acquisition of Units or Unit Weeks on Foreclosure: At any foreclosure sale of a Unit or Unit Week, the Board of Directors may, with the authorization and approval by the affirmative vote of voting members casting not less than sixty percent (60%) of the total votes of the members present at any regular or special meeting of the members wherein said matter is voted upon, acquire in the name of the Association, or its designee, a Condominium parcel or Unit Week being foreclosed. The term "foreclosure", used in this Section, shall mean and include any foreclosure of any lien, excluding the Association's lien for assessments or maintenance.

Section 2. Transfer of Units: All Owners of Units or Unit Weeks in a Unit committed to Interval Ownership shall notify the Association, of any transfer, by sale or otherwise, of said Unit or Unit week within ten (10) days of the date of same. Said Notice shall include such information and be in the form that the Association shall prescribe from time to time. The Association may send all necessary Notices to the person shown as Owner of said Unit or Unit Weeks in its records, and said Notice shall be binding as to any other Owner of said Unit or Unit Weeks where the Association has not been notified as provided herein.

ARTICLE X.

AMENDMENTS TO THE BY-LAWS

The By-Laws may be altered, amended, or added to at any duly called meeting of the Unit Owners, provided:

- (1) Notice of the meeting shall contain a statement of the proposed Amendment.
- (2) If the Amendment has received the unanimous approval of the full Board of Directors, then it shall be approved upon the affirmative vote of the voting members casting a majority of the total votes of the members of the Association.
- (3) If the Amendment has not been approved by the unanimous vote of the Board of Directors, then the Amendment shall be approved by the affirmative vote of the voting members casting not less than three-fourths (3/4ths) of the total votes of the members of the Association; and
- (4) Said Amendment shall be recorded and certified as required by the Condominium Act.

- (5) Notwithstanding the foregoing, these By-Laws may only be amended with the written approval when required of the parties specified in the Declaration of Condominium to which these By-Laws are attached.

ARTICLE XI.
NOTICES

Whatever Notices are required to be sent hereunder shall be delivered or sent in accordance with the applicable provisions for Notices as set forth in the Declaration of Condominium to which these By-Laws are attached.

ARTICLE XII
INDEMNIFICATIONS

The Association shall indemnify every Director and every Officer, his heirs, executors, and administrators, against all loss, cost and expense reasonably incurred by him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a Director or Officer of the Association, except as to matters wherein he shall be finally adjudged in such action, suit or proceeding, to be liable for or guilty of gross negligence or willful misconduct. The foregoing rights shall be in addition to and not exclusive of all other rights to which such Director or Officer may be entitled.

ARTICLE XIII
LIABILITY SURVIVES TERMINATION OF MEMBERSHIP

The termination of membership in the Condominium shall not relieve or release any such Owner or member from any liability or obligations incurred under, or in any way connected with the Condominium during the period of such ownership and membership, or impair any rights or remedies which the Association may have against such former Owner and member arising out of, or in any way connected with such ownership and membership, and the covenants and obligations incident thereto.

ARTICLE XIV.
LIMITATION OF LIABILITY

Notwithstanding the duty of the Association to maintain and repair parts of the Condominium property, the Association shall not be liable for injury or damage caused by a latent condition in the property, nor for injury or damage caused by the elements or by other Owners or persons.

ARTICLE XV.
PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of the Association's meetings when not in conflict with the Condominium Act, the Declaration of Condominium, or these By-Laws.

ARTICLE XVI.
LIENS

Section 1. Protection of Property: All liens against a Condominium Unit, other than for mortgages, taxes or special assessments, shall be satisfied or otherwise removed within thirty (30) days of the date the lien attached. All taxes and special assessments upon a Condominium Unit or Unit Week shall be paid before becoming delinquent, as provided in these Condominium documents or by law, whichever is sooner.

Section 2. Notice of Lien: A Unit Owner shall give Notice to the Association of every lien upon his Unit, other than for mortgages, taxes, and special assessments within five (5) days after the attaching of the lien.

Section 3. Notice of Suit: Unit Owners shall give Notice to the Association of every suit or other proceeding which will or may affect title to his Unit or any part of the property, such Notice to be given within five (5) days after the Unit Owner receives Notice thereof.

Section 4. Failure to Comply: Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.

Section 5. Units Committed to Interval Ownership: In the case of a Unit committed to Interval Ownership, an Owner of Unit weeks in such Unit shall be required to give Notices under Section 2 and Section 3 of this Article XVI only as to liens, suits, and proceedings affecting title to the Unit Weeks which he owns. Any lien against an Owner of Unit Weeks in a Unit committed to Interval Ownership, or against the Unit Weeks owned by him, shall be limited to the Unit Weeks owned by him and shall not encumber the property, real or personal, of any other Owner of Unit Weeks in said Unit.

**ARTICLE XVII.
RULES AND REGULATIONS**

Section 1. The Board of Directors may, from time to time, adopt or amend previously adopted administrative Rules and Regulations governing the details of the operation, use, maintenance, management and control of the common elements and limited common elements of the Condominiums and any facilities or services made available to the Unit Owners. A copy of the Rules and Regulations adopted from time to time as herein provided shall from time to time be posted in a conspicuous place and/or copies of same shall be furnished each Unit Owner.

Section 2. As to Condominium Units: The Board of Directors, may from time to time adopt or amend previously adopted Rules and Regulations governing and restricting the use and maintenance of the Condominium Units provided, however, that copies of such Rules and Regulations, prior to the time the same become effective, shall be posted in a conspicuous place and/or copies of same shall be furnished to each Unit Owner.

Section 3. Conflicts: In the event of any conflict between the Rules and Regulations adopted, or from time to time amended, and the Condominium documents, or the Condominium Act, the latter shall prevail. If any unreconciled conflict should exist or hereafter arise with respect to the interpretation of these By-Laws and the Declaration of Condominium, the provisions of said Declaration shall prevail.

The foregoing was adopted as the By-Laws of BERKSHIRE-BY-THE-SEA CONDOMINIUM ASSOCIATION, INC., at the first meeting of the Board of Directors.