

EXHIBIT B  
To Declaration

BY-LAWS  
OF  
MONTERAY PINES ASSOCIATION, INC.

ARTICLE I  
NAME, PURPOSE AND APPLICABILITY

1.1 Name. The name of this non-profit, non-stock membership corporation shall be MONTERAY PINES ASSOCIATION, INC., hereinafter referred to as "the Association".

1.2 Purpose. The purpose of the Association shall be to administer, manage, and operate the condominium property, in accordance with the Unit Ownership Act, the Non-profit Corporation Act of North Carolina, this Declaration, and the Articles of Incorporation and these By-Laws, as may be amended from time to time. The Association shall not engage in any activities other than those directly related to administration of the condominium property and the Unit Owners' responsibility with respect to the same.

1.3 Applicability. These By-Laws are applicable to the property known as MONTERAY PINES CONDOMINIUM, as such property is described on Exhibit A attached to that certain Declaration of the MONTERAY PINES CONDOMINIUM. These By-Laws are binding on all present and future Owners, tenants, guests, residents, or other persons occupying or using the facilities of such condominium property. The mere acquisition, rental, or act of occupancy of any part of the condominium property will signify that these By-Laws are accepted, ratified, and will be complied with. The provisions of the Declaration of Condominium for the MONTERAY PINES CONDOMINIUM regarding the governing and administration of the Association are incorporated herein by reference.

The acceptance of a deed of conveyance or the entering into of a lease or the act of occupancy of a Unit shall constitute an agreement that these Bylaws (and any rules and regulations made pursuant hereto) and

the provisions of the Declaration, as they may be amended from time to time, are accepted, ratified and will be complied with.

## ARTICLE II DEFINITIONS

2.1 Definitions. The definition of words contained in the Declaration, Article I shall apply to those words and terms as used in these By-Laws.

## ARTICLE III OFFICES, REGISTERED AGENT, SEAL, FISCAL YEAR

3.1 Principal Office, Registered Office. The principal office of the Association shall be located at Over/Seas Professional Center, 2400 N. Croatan Highway, Suite D, Kill Devil Hills, North Carolina 27948 or such other places as the Board of Directors may designate from time to time.

3.2 Registered Agent. The initial Registered Agent for the Unit Owners for matters incident to the condominium property and the initial Registered Agent for the Association is Robert R. DeGabrielle, whose address is Over/Seas Professional Centre, 2400 N. Croatan Highway, Suite D, Kill Devil Hills, North Carolina 27948. The Registered Agent for the Association shall also be the Registered Agent for the Unit Owners. The individual serving as Registered Agent may be removed from office and replaced at any time by vote of the Board of Directors of the Association.

3.3 Seal. The seal of the Association shall contain the name of the Association, the word "Seal", and such other words and figures as desired by the Executive Board. When obtained, the seal shall be impressed in the margin of the minutes of the initial meeting of the Board of Directors.

3.4 Fiscal Year. The fiscal year of the Association shall be January 1 through December 31.

## ARTICLE IV MEMBERSHIP

4.1 Qualification. Membership in the association shall be confined to and consist of the Unit Owners. Membership shall be appurtenant to

and inseparable from unit ownership. No Unit Owners shall be required to pay any consideration whatsoever for his membership. Membership in the Association shall inure automatically to Unit Owners upon acquisition of the fee simple title, whether encumbered or not, to any one or more units. The date of registration of the conveyance in the Currituck County Registry of the unit in question shall govern the date of ownership of each particular unit. However, in the case of death, the transfer of ownership shall occur on the date of death in the case of intestacy, or date of probate of the will in the case of testacy. Until a decedent's will is probated, the Association may rely on the presumption that a deceased Owner died intestate.

4.2 Annual Meeting. There shall be a regular annual meeting of the Unit Owners held each year during the same month of each succeeding year, for the purpose of electing members of the Board and for the transaction of such other business as may be properly brought before the meeting. A meeting so called shall be designated and treated for all purposes as the annual meeting.

4.3 Place of Meetings. Meetings of the Association shall be held in Corolla, North Carolina, the location of which shall be designated by the Executive Board.

4.4 Special Meetings. Special meetings of the Association may be called at any time by the President or by the Board, and shall be called and held within thirty (30) days after written request therefore signed by members of the Association entitled to cast at least fifty-one percent (51%) of the total votes in the Association is delivered to the Secretary of the Association. No business shall be transacted at a special meeting except that which is stated in the notice thereof.

4.5 Notice of Meetings. Notice of all meetings of the members, stating the time and place, and accompanied by each member. Such notice shall be in writing, and shall be hand delivered or sent by United States mail to the members at the addresses of their respective Units and to other addresses as any member may have designated to the President or Secretary, at least twenty-one (21) days in advance of any annual or regularly scheduled meeting and at least seven (7) days in advance of any other meeting.

Notice given to any one tenant-in-common, tenant by the entirety or other joint owner of a Unit shall be deemed valid notice to all joint owners of such Unit.

The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or these Bylaws, and budget changes, and any proposal to remove Board members or officers.

When a meeting is adjourned for less than thirty (30) days in any one adjournment, it is not necessary to give any notice of the adjourned meeting, other than by announcement at the meeting at which the adjournment is effective.

4.6 Quorum: Adjournment if No Quorum. The presence in person or by proxy at any meeting of the Voting Members (as defined in Section 4.7 of this Article) having at least thirty percent (30%) of the Votes of the Association shall constitute a quorum. If there is no quorum at the opening of the meeting of Unit Owners, such meeting may be adjourned from time to time by the vote of a majority of the Voting Members present, either in person or by proxy; and at any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted at the original meeting.

The Voting Members at a meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Voting Members to leave less than a quorum.

4.7 Voting.

(A) The total votes in the Association are forty-eight (48) with each Unit having one vote. The votes allocated to the unit may be cast by the Unit Owner of that unit. When there is more than one Unit Owner of a unit, the vote for that Unit shall be cast as they shall determine. The vote allocated to a unit shall not be split but shall be voted as a single whole. If there is more than one Unit Owner of a unit and said Unit Owners cannot agree on how to vote for that unit, such vote shall be cast, and the dispute shall be resolved by arbitration.

(B) Except where a greater number is required by the Condominium Act, the Declaration or these By-Laws, a Majority of the Unit Owners is required to adopt decisions at any meeting of the Association.

(C) No Unit Owner may vote at any meeting of the Association or be elected to or serve on the Executive Board if payment of the assessment on his unit is delinquent more than thirty days and the amount necessary to bring his account current has not been paid at the time of such meeting or election.

4.8 Proxies. A vote may be cast in person or by proxy.

4.9 Prohibition of Cumulative Voting. There shall be no cumulative voting.

4.10 Waiver of Notice. Any Voting Member may, at any time, waive notice of any meeting of the Association in writing, and such waiver shall be deemed to be equivalent to the giving of such notice. Attendance by a Voting Member at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof, except where a Voting Member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the Voting Members are present at any meeting of the Unit Owners, no notice shall be required, and any business may be transacted at said meeting.

4.11 Informal Action by Unit Owners. Any Action which may be taken at a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Voting Members and filed with secretary of the Association to be kept in the Association's minute book.

## ARTICLE V EXECUTIVE BOARD

5.1 Number. The business and property of the Condominium shall be managed and directed by the Executive Board (the "Board"), composed of three (3) persons; provided, however, that the Board may not act on behalf of the Association to amend the Declaration, to terminate the

Condominium, to exercise the Association's right of first refusal under the Declaration, to elect members of the Executive Board, or to determine the qualifications, powers, duties or terms of office of Board members. The Board may, however, fill vacancies in its membership for the unexpired portion of any term.

5.2 Initial Members. The initial members of the Board (referred to as "Directors" herein) shall be selected by the Declarant and shall serve at the election of the Declarant from the date upon which the Declaration is recorded in the Currituck County Public Registry, until such time as their successors are duly elected and qualified.

5.3 Election. Except as provided herein, the directors shall be elected at the annual meeting of the Association, and those persons who receive the highest number of votes shall be deemed to have been elected. The members shall elect a Chairman, a Secretary and a Treasurer (the "Officers") and those Officers shall be the Board.

5.4 Term and Qualification. Each director shall hold office for the term for which he was elected, or until his death, resignation, retirement, removal, disqualification or until his successor is elected and qualified.

5.5 Removal. Any Director may be removed, with or without cause, by a vote of the members entitled to cast at least sixty-six percent (66%) of the total votes in the Association, at a special meeting called for such purpose, and a successor may then be elected by the members to serve for the balance of the removed Director's term.

5.6 Vacancies. A vacancy occurring in the Board may be filled by a majority of the remaining directors, though less than a quorum, or by the sole remaining director. The Voting Members may elect a director at any time to fill any vacancy not filled by the Board.

5.7 Compensation. The Board shall receive no compensation for their services but may be reimbursed for out-of-pocket expenses for duties as Directors, as approved by the Board.

5.8 Powers and Duties of the Board. The Board shall have the powers and duties necessary for the administration of the affairs of the Condominium, and may do all such acts and things, except such acts as by

law or the Declaration or by these By-Laws may not be delegated to the Board. Such powers and duties of the Board shall include, but shall not be limited to, the following:

- (A) Determining the Common Expenses required for the affairs of the Condominium, including, without limitation, the operation and maintenance of the Property.
- (B) Collecting the Common Expenses from the Unit Owners.
- (C) Supervising the operation, care, upkeep and maintenance of the Common Elements.
- (D) Employing and dismissing the personnel necessary for the maintenance and operation of the Common Elements.
- (E) Adopting and amending such reasonable rules and regulations as it may deem advisable for the maintenance, conservation and beautification of the Property, and for the health, comfort, safety and general welfare of the owners and occupants of the Property. Written notice of such rules and regulations shall be given to all Unit Owners and occupants, and the entire Property shall at all times be maintained subject to such rules and regulations.
- (F) Opening bank accounts on behalf of the Condominium and designating the signatories required therefor.
- (G) Entering any Unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided that, except in the event of emergencies, such entry shall be made during reasonable hours with as little inconvenience to the Unit Owner as practical, and any damage caused thereby shall be repaired by the Board, with such expenses being treated as a Common Expense.
- (H) Signing all agreements, contracts, deeds, easement agreements, and vouchers for the payment of expenditures and other instruments.

(I) Obtaining insurance for the Property pursuant to the applicable provisions of the Declaration.

(J) Making or contracting for repairs, additions and improvements to or alterations or restorations of the Property in accordance with the other provisions of these Bylaws and the Declaration, after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceeding.

(K) Contracting for all goods, services and insurance, payment for which is to be made from the Common Expense fund.

(L) Instituting, defending, or intervening in litigation or administrative proceedings in the name of or on behalf of the Association or two or more Unit Owners on matters affecting the Condominium.

(M) Imposing charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, the Bylaws, or rules and regulations established by the Association, all in accordance with Sections 47C-3-107 and 47C-3-107A of the Act.

(N) Exercising (i) all powers specifically set forth in the Declaration, the Articles of Incorporation, these Bylaws and in the Act, (ii) all powers incidental thereto, and (iii) all other powers of a non-profit North Carolina corporation.

**5.9 Powers and Duties of the Officers.**

(A) Chairman of the Board. The Chairman of the Board shall be the chief executive officer of the Association; shall have all of the powers and duties incident to the office of a chairman of a corporation, including, but not limited to, the duty to preside at all meetings of the Board and of the members, and the general supervision of officers in the management of the business and affairs of the Association; and shall see that all actions and resolutions of the Board are carried into effect.



(B) Secretary. The Secretary shall keep the minutes of all meetings and actions of the Board and of the members; shall give all required notices to the Directors and members; shall keep the records of the Association, except those kept by the Treasurer; shall perform all other duties incident to the office of a secretary of a corporation; and shall perform such other duties required by the Board or the Chairman.

(C) Treasurer. The Treasurer shall have custody of all intangible property of the Association, including funds, securities, and evidences of indebtedness; shall keep the books of the Association in accordance with good accounting practices and principles, and, upon request, shall submit them, together with all vouchers, receipts, records, and other papers to the Board for examination and approval; shall deposit all moneys and other valuable effects in depositories designated by the Board; shall disburse funds of the Association as directed by the Board; and shall perform all other duties incident to the office of a treasurer of a corporation.

5.10 Declarant Control Period. The Declarant, its successors and assigns, shall have the right to appoint and designate the entire Board of Directors of the Association during the Declarant Control Period. Beginning with the next annual meeting of the membership of the Association after expiration of the Declarant Control Period, the Board of Directors shall be elected as set forth in Section 5.3 herein.

#### ARTICLE VI INDEMNIFICATION OF EXECUTIVE BOARD AND OFFICERS

6.1 Indemnification. The Association shall indemnify such persons, for such expenses and liabilities, in such manner, under such circumstances, and to such extent, as permitted by the appropriate sections of the North Carolina General Statutes, as now enacted or hereafter amended.

#### ARTICLE VII OPERATION OF THE PROPERTY

7.1 Assessment and Determination of Common Expenses. The Board shall from time to time, and at least annually, prepare a budget for

the Condominium, for the purpose of determining the amount of the Assessments to be collected from the Unit Owners in order to provide for the Common Expenses of the Condominium, and allocate and assess such Common Expenses among the Unit Owners, according to their percentage of interest in the Common Elements as set forth in the Declaration, taking into consideration any expected income and any surplus from the prior year's operation. The Common Expenses shall include, without limitation, the expenses, costs and charges incurred in connection with the administration, operation and management of the Condominium Property; the cost of maintenance, repair, replacement and restoration of the Common Elements, or any part thereof; the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Board pursuant to the provisions of the Declaration; such amounts as the Board may deem proper for the convenience, comfort and well-being of the Unit Owners, and for the operation, management and maintenance of the Property, including, without limitation, an amount for working capital of the Condominium, for a general operating reserve, for a reserve fund for replacements, and to make up any deficit in the Common Expenses for any prior year; in proper cases, the cost of administration and of maintenance and repair of the Limited Common Elements; and any other expenses lawfully agreed upon.

In establishing a reserve fund for replacements, the Board shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall then set the required capital contribution in an amount sufficient to permit meeting the projected capital needs of the Association with respect to both amount and timing by equal annual installments over the applicable period. Within thirty (30) days after adoption by the Board, the Board shall provide a summary of the budget to all Unit Owners.

**7.2 Payment of Assessments.** The Unit Owners shall be obligated to pay (1) General Assessments for Common Expenses assessed by the Board from time to time, and at least semi-annually in accordance with the percentage interest allocations set forth in the Declaration; (2) special assessments to be established and collected as provided herein, and (3) specific assessments against any Unit which are established pursuant to the terms of these Bylaws. A late payment charge in an amount to be determined by the Board shall be assessed for any assessment installment not paid within fifteen (15) days of its due date. Any installment not paid

within fifteen (15) days of its due date shall be subject to the late payment charge and shall accrue interest as provided in Section 7.5, and shall constitute a lien on the Unit as provided in Section 7.6 of this Article VII.

A purchaser of a Unit shall be jointly and severally liable with the seller for the payment of Assessments assessed against such Unit prior to the acquisition by the purchaser of such Unit only if the purchaser expressly assumes such obligation in writing; provided, however the lien assessed against such Unit shall remain in full force and effect. Any such purchaser shall be entitled to a statement from the Board setting forth the amount of the unpaid Assessments against the seller, and the Unit conveyed shall not be subject to a lien for any unpaid assessments in excess of the amount shown on the statement. Provided, however, that a First Mortgagee who takes a deed in lieu of foreclosure shall not be liable for, and such Unit shall not be subject to, a lien for the payment of Common Expense assessed prior to the foreclosure sale or deed in lieu of foreclosure, and such unpaid Common Expenses shall be deemed to be Common Expenses collectible from all of the Unit Owners, including such purchaser, his successors and assigns.

7.3 Special Assessments. The Association may levy Special Assessments for Common Expenses not covered by the General Assessment, applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Elements, including fixtures and personal property related thereto, provided that any such Assessment must be approved by the vote of Owners of Units to which at least four (4) of the votes in the Association are allocated cast in person or proxy at a meeting duly called for this purpose. Such Special Assessments shall be charged to the Units according to their percentage interests in the Common Elements. In addition, the Board may levy Special Assessments against one or more, but less than all, of the Units to cover repairs or maintenance for which such Unit Owner or Owners are responsible and which they have failed to make, or for repairs or maintenance required of a Unit Owner or Unit Owners which impair the value of the Common Elements or the Unit or Units, or expenses which are incurred in the abatement of or as a result of a violation by a Unit Owner or Owners of the provisions of the Declaration, the Bylaws or the rules, regulations, or for fines levied for said violations, or where the Board has purchased a Unit on behalf of one or more Unit Owners. The period of

assessment and manner of payment of such assessment shall be determined by the Board.

7.4 Collection of Assessments. The Board shall determine Common Expenses against the Unit Owner, and as the Board shall determine take prompt action to collect any Assessments due from any Unit Owner which remain unpaid for more than fifteen (15) days from their due date.

7.5 Default in Payment of Assessment. In the event of default by any Unit Owner in paying to the Board any amounts assessed by the Board, such Unit Owner shall be obligated to pay a late payment charge as established by the Board from time to time, and interest at the rate of twelve percent (12%) on such amounts from their due date; together with all expenses, including reasonable attorneys' fees (if permitted by law), incurred by the Board in collecting such unpaid sums.

7.6 Lien and Personal Obligation. Each Assessment provided for in this Article, together with late payment charges, interest and expenses, including reasonable attorneys' fees, shall be a charge on and a continuing lien upon the Unit against which the Assessment is made when a notice of such lien has been filed of record in the office of the Clerk of Superior Court of Currituck County, North Carolina, in the manner provided by Article 8, Chapter 44, of the North Carolina General statutes, provided such notice of lien shall not be recorded until such sums assessed remain unpaid for a period of fifteen (15) days after the same shall become due. Said notice of lien shall also secure all Assessments against the Unit becoming due thereafter until the lien has been satisfied. Said lien may be foreclosed in the manner as a deed of trust on real property. In addition, each Unit Owner shall be personally liable for any Assessment against his Unit becoming due and payable while he is the Owner of such Unit.

7.7 Priority of Assessment Lien. The lien of the Assessments provided for in this Article shall be prior and superior to all other liens except (a) ad valorem taxes, and (b) all sums unpaid on deeds of trust, mortgages or other encumbrances against the Unit prior to the docketing of the Assessment lien. The sale or transfer of any Unit shall not affect the Assessment lien against such Unit. Provided, however, the sale of a Unit pursuant to the foreclosure sale or execution sale instituted by a superior lien holder or conveyance to a First Mortgagee by deed in lieu of

foreclosure shall extinguish the inferior Assessment lien against the subject Unit but no such sale or transfer shall relieve each Unit from liability for any Assessments thereafter becoming due or for any future lien in connection therewith. The Association shall share in the excess, if any, realized by the sale of any Unit pursuant to a foreclosure or action instituted by a superior lien holder, to the extent of its lien.

7.8 Owner's Non-Use. No Unit Owner may exempt themselves from liability for Assessments and their other obligations to the Association by waiver of the use or enjoyment of any portion of the Common Elements or by the abandonment or sale of his Unit.

7.9 Foreclosure of Liens for Unpaid Assessments. Following the institution of any action by the Board to foreclose on a Unit because of unpaid Assessments, the Unit Owner shall pay a reasonable rental for the use of their Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the rental. The Board, acting on behalf of the Association, or on behalf of any one or more individual Unit Owners, if so instructed, shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey or otherwise deal with the same, subject, however, to applicable restrictions of record. A suit to recover a money judgment for unpaid Assessments shall be maintainable without foreclosing or waiver of the Assessment lien. Where a First Mortgagee or the purchaser of a Unit obtains title to the Unit as a result of foreclosure of the First Mortgage, such purchaser, its successors and assigns, shall not be liable for the share of the Common Expenses or Assessments by the Board chargeable to such Unit which became due prior to the acquisition of title to such Unit by such purchaser. Such unpaid share of Common Expenses or Assessments shall be deemed to be a Common Expense collectible from all Unit Owners, including such purchaser, its successors and assigns.

7.10 Statement of Common Expenses. The Board shall promptly provide any Unit Owner so requesting the same in writing with a written statement of all unpaid charges due from such Unit Owner.

7.11 Abatement and Enjoinment of Violations by Unit Owners. The violation of any rule or regulation adopted by the Board or the breach of any bylaw contained herein, or the breach of any provision of the Declaration, shall give the Board the right, in addition to any other rights set

forth in these Bylaws: (a) to enter the Unit in which, or as to which, such violation or breach exists, and to make any repairs, and to summarily abate and remove, at the expense of the defaulting Unit Owner, any structure, thing or condition which may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass, or, (b) to enjoin, abate, or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach at the expense of the defaulting Unit Owner; (c) in any case of flagrant or repeated violation by a Unit Owner, to require such Unit Owner to give sufficient sureties for his future compliance with such Condominium documents; or (d) after notice and an opportunity to be heard, to levy reasonable assessments and fines in accordance with Sections 47C-3-107 and 47C-3-107A of the Act for such violations. The failure of the Board to so act with respect to any such violation or breach shall not be deemed a waiver of the Board's right to act with respect to the same or any other breach or violation.

**7.12 Remedies Cumulative.** All rights, remedies and privileges granted to the Association or the Owner or Owners of a Unit pursuant to any terms, provision, covenants or condition of the Declaration or other above-mentioned documents, shall be cumulative, and the exercise of any one or more shall not constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other additional rights, remedies or privileges as may be available to such party at law or in equity.

**7.13 Non-Waiver of Remedies.**

(A) The failure of the Association or any Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration or the other above-mentioned documents shall not constitute a waiver of the right of the Association or the Unit Owner to enforce such right, provision, covenant or condition in the future.

(B) The failure of a First Mortgagee to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by the Declaration or other above-mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

**ARTICLE VIII  
FINANCIAL RECORDS AND STATEMENTS**

8.1 Reports. The Board shall keep records of the actions of the Board, minutes of the meetings of the Board, minutes of the meetings of the Association, and financing records and books of account of the Condominium, including a chronological listing of receipts and expenditures for each Unit, which, among other things, shall contain the amount of each Assessment against each Unit, the date when due, the amounts paid and the balance remaining unpaid. The financial records and books of account shall be available for examination by all Unit Owners, their duly authorized agents or attorneys, and all lien holders, their attorneys and authorized agents, upon reasonable request. A written annual summary of all receipts and expenditures of the Condominium shall be rendered by the Board to all Unit Owners on or before the 15th day of March of each fiscal year.

8.2 Operating Expense Funds. All sums collected by the Association may be commingled in a single account, but they shall be held for the Owners for the purposes for which they are paid, and shall include the following funds:

(A) General Common Expense Fund --to which shall be credited collection of that portion of the Common Expense Assessments received for defraying the costs of operating the Condominium on a day-to-day basis, including normal maintenance and repairs, insurance and related charges; and

(B) Capital Reserve Fund --to which shall be credited, all sums collected which are to be allocated for capital expenditures for the reconstruction, repair and replacement of Common Elements at a future date.

8.3 Records. All books of account and financial records shall be kept in accordance with good and acceptable accounting practices. The Board shall prepare an annual financial statement for all Unit Owners on or before the 15th day of March following the close of each fiscal year.

**ARTICLE IX  
COMPLIANCE, ENFORCEMENT, FINES AND PENALTIES**

9.1 Default and Remedies. A default in or failure to comply with any of the terms, conditions, obligations, and provisions of the Act, the Declaration, these By-Laws, the Articles, or the rules and regulations, as the same may be amended from time to time, by any unit Owner or occupant, shall be grounds for relief that may include, without intending to limit the same or to constitute an election of remedies, an action to recover fines and penalties as determined by the Board, sums due for damages, an injunction, or any combination thereof, and which relief may be sought by the Association, an aggrieved unit Owner, or by any person or class of persons adversely affected. Also, if any member fails to perform any obligation under the Act, the Declaration, these By-Laws, the Articles or such rules and regulations, then the Association may, but is not obligated to perform the same for the member's account, and for such purpose may enter upon his unit, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such expenses and costs may levy a special assessment against the unit owned by such defaulting member. The Association also shall be entitled to suspend the right of a defaulting unit Owner to vote as a member of the Association until the default is cured.

9.2 Notice of Default and Failure to Cure. In the event of any such default or failure, the Board shall serve upon or mail to the defaulting member, and to each first mortgagee of that member's unit if required under the Declaration, a written notice specifying the nature of the default, the cure thereof, and the time within which the cure shall be effected. Within the time limit specified in the notice, the defaulting member may cure the default specified, or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail the defaulting member, and to each such first mortgagee which was entitled to notice of the default as above provided, a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the defaulting member and each such first mortgagee. The hearing may be continued from time as determined by the Board. Upon taking such



evidence and hearing such testimony, the Board, at the hearing or at such later time, shall determine, in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured, or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting member, and to each such first mortgagee which was entitled to notice of the default as above provided, a copy of its determination. If the defaulting member (i) does not cure the default or request a hearing within the time limit specified in the original notice of default given pursuant to his Section, or (ii) so requests a hearing, but fails to cure the default (to the extent not waived by the Board) within the extended time, if any, granted by the Board after hearing, then the Board shall serve upon or mail to the defaulting member, and to each such first mortgagee which was entitled to notice, of the default as above provided, a written notice of such member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief.

9.3 Remedy of Abatement in addition to other Remedies. In the event a member fails to effect the cure specified by the Board within the time period set out in (i) or (ii) of Section 9.2 hereof, whichever is applicable, where the default is a structure, thing, or condition existing in or on the premises of the member's unit, the Board, or its duly authorized representative, shall have the right to enter upon the premises of the member's unit in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting member's expense (and levy an assessment therefore as provided in Section 94.1 hereof), the structure, thing or condition constituting the default, and the Board, the Association, and their agents, employees and representatives shall not thereby be deemed guilty of any manner or trespass.

9.4 Injunction. Any person or class of persons entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction or similar relief, without first using the procedure established by Section 9.2 hereof, if such default or failure creates an emergency or a situation dangerous to persons or property.

9.5 Recovery of Attorneys' Fees and Costs. In any proceeding arising because of an alleged default by a member, the prevailing party shall be entitled to recover the costs of such proceeding and such

reasonable attorneys' fees as may be allowed by the court, with interest thereof at the highest rate allowed by law at the time the costs are incurred until paid.

9.6 Nonwaiver of Covenants. The failure of the Association or of any member thereof to enforce any term, provision, right, covenant or condition that may be granted by the Declaration, these By-Laws, the Articles, the rules and regulations of the Act, as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a member to enforce such term, provision, right, covenant, or condition in the future, irrespective of the number of violations or breaches thereof that may have occurred.

9.7 Assessment Liens. Assessment liens shall be enforced pursuant to Article VII hereof and not pursuant to this Article.

## ARTICLE X AMENDMENTS TO BYLAWS

10.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of a meeting at which a proposed amendment is to be considered.

10.2 Adoption. Any amendment to these ByLaws shall be made and approved in the manner, and shall be subject to the same restrictions as provided in Article XI of the Declaration, and once made, shall become effective when recorded in the same manner and place as an amendment to the Declaration.

10.3 Limitation. No amendment may be adopted which would eliminate, modify, prejudice, abridge or otherwise adversely affect any rights, benefits, privileges or priorities granted or reserved to the First Mortgagees without the consent of said First Mortgagees in each instance. No amendment shall be made that is in conflict with the Articles of Incorporation of the Association or Declaration without satisfaction of the requirements therein contained. No amendment to this Section shall be valid.

10.4 Execution. A copy of each amendment shall be attached to a certificate certifying that the amendment was duly adopted as an

amendment to the Declaration or Bylaws, which certificate shall be executed by the Chairman and attested by the Secretary.

**ARTICLE XI  
MISCELLANEOUS**

11.1 Ad Valorem Taxes. Each Unit shall be deemed to be a separate parcel and shall be separately assessed and taxed. Each unit Owner shall be liable solely for the amount of tax assessed against their Unit and shall not be affected by the consequences resulting from the tax delinquency of other Unit Owners. All tangible personal property owned by the Association in connection with the maintenance, upkeep and repair of the Common Elements shall be listed for said taxes in the name of and paid by the Association. Each Unit Owner is also responsible for their pro rata share of taxes assessed on their portion of the Common Elements, if any.

11.2 Severability. Invalidation of any covenant, condition, restriction or other provision of the Declaration or these Bylaws shall not affect the validity of the remaining portions thereof which shall remain in full force and effect.

11.3 Successors Bound. The rights, privileges, duties and responsibilities set forth in the Declaration or these Bylaws, as amended from time to time, shall run with the ownership of the Condominium Property and shall be binding upon all persons who own or hereafter acquire any interest in the Condominium Property.

11.4 Rules and Regulations.

(A) By the Board. The Board, including the first Board, may promulgate from time to time such rules and regulations as it deems reasonable and necessary governing the administration, management, operation, and use of the Common Elements so as to promote the common use and enjoyment thereof by Unit Owners and Occupants and for the protection and preservation thereof. In addition, the Board may adopt such rules and regulations as it deems reasonable and necessary with respect to Units to provide for the common good and enjoyment, non-disturbance, privacy and security of all Unit Owners and Occupants, including, without limitation, the

right to adopt such rules and regulations with reference to tenants and leases.

(B) By the Association. Any such rule or regulation adopted by the Board may be amended, modified, or revoked, and new and additional rules and regulations may be adopted, by members at an annual or special meeting of the members. Any such act of the members shall control over any contrary rule or regulation then or thereafter adopted by the Board.

(C) Uniform Application. All rules and regulations shall be equally and uniformly applicable to all Unit Owners, Occupants and Units, but need not be equally and uniformly applicable if it is determined that such unequal or nonuniform application is in the best interest of the Association or if equal and uniform application is not practicable.

(D) Copies Furnished. Copies of all such rules and regulations and any amendments thereto shall be furnished to all members, and a copy shall be posted or otherwise made available to members at the office of the Association. However, failure to furnish, or post, or make available, such rules or regulations shall not affect in any way their validity or enforceability.

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly appointed and acting secretary of the Monteray Pines Condominium Association, Inc., a North Carolina Corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of said Association.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association, by authority duly given, this 17 day of August, 2001.

MONTERAY PINES ASSOCIATION, INC.

BY:

*Rahel R. [Signature]*  
Secretary