

BY-LAWS
OF
MISSION BAY PRESERVE HOMEOWNERS ASSOCIATION, INC.
A Montana Non-Profit Corporation

ARTICLE I. OFFICES

The provisions of these By-Laws shall apply to and govern the Mission Bay Preserve Homeowners Association (the "Association"), a Montana nonprofit corporation, established for the purpose of performing the rights, obligations and duties of the Association as set forth in these By-Laws, the Articles and the Covenants covering the Properties.

ARTICLE II. CERTIFICATES FOR SHARES AND THEIR TRANSFER

Section 1. Definitions. The following words shall have the following meanings when used in these By-Laws.

- (a) "Association", "Common Area", "Lot", "Member" and "Owner" shall have the meanings set forth in the "Covenants" as the same are hereinafter defined.
- (b) "Declarant" shall mean and refer to Northwest Holdings, LLC, a Delaware limited liability company, its successors and assigns.
- (c) "Articles" shall mean the Articles of Incorporation of the Association as said Articles are amended from time to time.
- (d) "Board" shall mean the board of Directors of the Association.
- (e) "Improvements" shall mean buildings, roads, driveways, walkways, parking areas, fences, balconies, hedges, plantings, planted trees and shrubs, docks and all other structures or landscaping improvements of every kind, nature and description.
- (f) "Covenants", shall mean and refer to the Protective Covenants applicable to the property recorded by Declarant in the office of the Clerk and Recorder of Lake County, Montana recorded under Microfile No. _____.

ARTICLE III. PRINCIPAL OFFICE

Section 1. Address. The principal office of the Association shall be located in the County of Lake, State of Montana, but meetings of the Members and Board may be held at such place in the County of Lake, State of Montana, as the Board of Directors may from time to time designate.

ARTICLE IV. MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership.

(a) Qualifications. Every person or entity who owns a Lot shall be a Member of the Association. Ownership of such lot shall be the sole qualification for Membership in the Association.

(b) Member's Rights and Duties. Each Member shall have the rights, duties and obligations set forth in the covenants, the Articles, these By-Laws, and any rules adopted by the Board in accordance with the covenants and these By-Laws, as the same may from time to time be amended.

(c) Transfer of Membership. The Association Membership of each Owner (including Declarant) shall be appurtenant to the Lot giving rise to such Membership and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to said lot, and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the Membership in the Association appurtenant thereto to the new owner thereof.

Section 2. Voting Rights.

(a) Classes of Membership. The Association shall have one class of Members all of whom shall be owners.

(b) Number of Votes. With the exception of Declarant each Member shall be entitled to one vote for each lot owned. When more than one person is the owner of a lot, all such persons shall be Members, but the vote for such lot shall be exercised as they, among themselves determine, but in no event shall more than one vote be cast with respect to any lot. As to Declarant, as long as Declarant is the owner of four (4) or more lots it shall be entitled to ten (10) votes for each lot it owns.

ARTICLE V. MEMBERSHIP ASSESSMENT AND LIEN RIGHTS

Section 1. Membership Assessment. Regular, annual, special and capital improvement assessments as provided for in the Covenants together with all other assessments of the Members of the Association at the times, in the manner and subject to the conditions and limitations set forth in the Covenants shall be paid by each member and the Board shall fix, levy, collect and enforce such assessments at the times, in the manner and subject to the limitations set forth in the Covenants.

Section 2. Enforcement. Lien Rights. For the purpose of enforcing and collecting assessments, this Association shall have the lien rights set forth in the Covenants, which lien rights shall be enforceable by the Board in the Manner set forth in the Covenants and shall also have and be entitled to exercise all other rights and remedies set forth in the Covenants or otherwise provided for at law or in equity.

ARTICLE VI. MEMBERSHIP RIGHTS AND PRIVILEGES

Section 1. Rights and Privileges of Members. No Member shall have the right, without the prior approval of the Board, to exercise any of the powers or to perform any of the acts by the By-Laws or the covenants delegated to the Board or the Association, but each Member shall have all of the rights and privileges including , but not limited to, property rights and rights to access to and over, and use and

enjoyment of the Common Area granted to the Members or Owners by these By-Laws or the Covenants subject to such limitations as may be imposed in accordance therewith.

Section 2. Suspension of Voting Rights. The Board shall have the right to suspend the voting rights and/or the right to use of the facilities located within the Common Area of any Member or Members of the Association for the period during which any assessment against the Lot owned by such Member or Members and giving rise to such Membership remains unpaid and delinquent, and shall further have the right to suspend such voting rights and/or the right to use of such facilities for a period not to exceed thirty (30) days for any infraction of the Association Rules committed by such Member or any other Owner giving rise to the voting rights and/or the recreational use rights being suspended. Any suspension of such voting rights and/or the rights to use the facilities within the common Area, except for failure to pay assessments shall be made by the board only after meeting of the Board at which a quorum of the Board is present, duly called and held for such purpose in the same manner as provided in these By-Laws for the noticing, calling and holding of a special meeting of the Board. Written notice of such meeting shall be given to the Member whose rights are being sought to be suspended at least three (3) days prior to the holding of such meeting. Such notice shall be given either by personal delivery or deposited in the United States mail, the address given to the Association by him for the purpose of giving notice. Such notice, if mailed, shall be deemed given and received twenty-four (24) hours after being so deposited in the United States mail in the manner aforesaid, and said Member whose rights are being sought to be suspended shall be entitled to appear at such meeting and present at such meeting and shall be binding upon all Members of the Association. No action taken at such meeting shall be effective unless a quorum of the board is present as such meeting.

ARTICLE VII. DIRECTORS

Section 1. General Powers. The ordinary course of the business of the corporation shall be managed and conducted by its Board of Director(s), except as otherwise provided by law or by the Articles of Incorporation. Where inconsistent, the Articles of Incorporation shall control.

Section 2. Number, Tenure and Qualification. The affairs of the Association shall be managed by a Board of three (3) Directors, each of whom shall be either Members of the Association or partners, employees or agents of the Declarant.

Section 3. Nomination. Prior to the first annual meeting of the Association, the incorporator named in the Articles shall appoint the initial three (3) Directors of the Association. Prior to the first annual meeting, and prior to each annual meeting of the Members thereafter, a nominating committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine. Nominations may also be made from the floor of the annual meeting. The nominating committee shall consist of the Chairman, who shall be a Member of the Board of directors and two or more Members of the Association. The nominating committee shall be appointed by the board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting.

Section 4. Election. Election to the board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast as many votes as they are entitled to exercise under the provisions for the Articles. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 5. Removal and Vacancies. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members. In the event of death, resignation or removal of a Director, his

successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his predecessor.

Section 6. Regular Meetings. Immediately following the first annual meeting and each subsequent annual meeting of Members, the Board of Directors shall hold a regular meeting at the same place for the purpose of organization, election of officers and the transactions of other business. Notice of such meeting is hereby dispensed with. Other regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 7. Special Meetings. Special meetings of the Board of Directors may be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director.

Section 8. Quorum. A majority of the board of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 9. Action by Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all of the Directors, and filing the same with the minutes of the proceedings of the Board. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 10. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 11. Powers and Duties. Subject to the limitations of the Articles, these By-Laws, the Covenants, and the Montana Corporation Code as to action required to be taken, authorized or approved by the Members of the Association, or a portion or percentage thereof, all Association powers and duties including those set forth in the Declaration shall be exercised or controlled by the board of Directors. Without limiting the generality of the foregoing, the Board shall:

- (a) Cause the Common area and the improvements, facilities, structures and landscaping thereon to be operated, protected, and maintained and procure and pay for liability and hazard insurance, together with such other insurance as may be required by the Covenants.
- (b) Have the power to adopt and amend Association Rules governing the use of the Common area, and the personal conduct of Members and their guests thereon in the manner provided for by the Covenants.
- (c) Establish, levy, assess and collect the assessments or charges referred to in the Covenants in the manner set forth therein, send out required notices thereof, prepare and issue certificates setting forth whether assessments have been paid as required by the Covenants, and enforce timely payment of such assessments in the manner set forth in the Covenants. The maintenance of the common area and recreational facilities, and maintaining park and picnic areas, and the costs and expenses of the performance by the Board of Directors of all of its duties and powers shall be paid for out the assessments so made and collected.

(d) Have the power in the event that any Member of the Board of Directors of the Association shall be absent from four (4) consecutive regular meetings of the Board of Directors, by action taken at the meeting during which said fourth absence occurs to declare the office of said absent Director to be vacant.

(e) When deemed necessary, employ a professional manager and also employ an independent contractor and such other employees as it deems necessary and prescribe their duties, and enter into contracts and agreements for the purpose of providing for the performance of its powers and duties. The Board may further delegate any of its powers to such persons or entities as the Directors may determine.

(f) Cause to be kept a complete record of all of its acts and corporate affairs and present a statement thereof to the Members at the annual meeting of the Members or any duly called special meeting of the Members.

(g) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed.

(h) Appointment and remove at its pleasure, all officers, agents and employees of the Association, prescribe their duties, fix their compensation, subject to the limitations on compensation to Directors and Officers, and obtain such fidelity bonds as it may deem necessary or appropriate. The premium on such bonds shall be paid for by the Association.

ARTICLE VIII. COMMITTEES

Section 1. Appointment. The board shall appoint committees as deemed appropriate in carrying out its purpose.

Section 2. Compensation. Under no circumstances shall any compensation be paid to any Member of any committee for services rendered as a Member thereof; provided, however, that any committee Member may be reimbursed for his actual authorized expenses incurred in the performance of its duties.

ARTICLE IX. MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within six months from the date of incorporation of the Association, and each subsequent regular meeting of the Members shall be held on the same day of the same month of each year thereafter; provided, however, that if the day for a given annual meeting is a legal holiday, such meeting will be held on the first day following which is not a legal holiday. At the initial annual meeting, and at all subsequent annual meetings, there shall be elected by secret written ballot of the Members, a Board of Directors in accordance with the requirements of these By-Laws. The Members may also transact such other business of the Association as may properly come before them at such organizational or annual meetings.

Section 2. Special Meetings. Special meetings of the Members shall be called at any time by the president or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all of the Membership votes.

Section 3. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice,

postage prepaid, at least fifteen (15) days before such meeting to each Member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of noticed, except that written notice of any meeting called for the purpose of approving assessments shall be given not less than thirty (30) days nor more than sixty (60) days before such meetings. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of Members or of proxies entitled to cast one-half ($\frac{1}{2}$) of all the votes shall constitute a quorum for any action; provided, however, that if a quorum is not present at the first meeting called for the purpose of approving assessments pursuant to Article IV, Section 5 of the Covenants, another such meeting may be called within sixty (60) days, subject to the notice requirement set forth in Section 3 hereof, and the required quorum at the subsequent meeting shall be one-half ($\frac{1}{2}$) of the required quorum at the preceding meeting. If not otherwise provided herein, and if such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting to a date within thirty (30) days of the meeting, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented. The Members present at a duly called or held meeting at which quorum is present may continue to do business until adjournment notwithstanding the withdrawal of enough Members so that less than a quorum is present, and the Members then remaining and entitled to cast votes at such meeting shall constitute a quorum in connection with the conducting of such business prior to adjournment. In computing the total votes of the Association for the purposes of these By-Laws, the Articles and Covenants, voting rights which have been suspended in accordance with the Covenants and these By-Laws shall not be counted.

Section 5. Consent of Absentees. The transactions of any meeting of Members, either annual or special, however called and noticed, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present either in person or by proxy, and if, either before or after the meeting, each of the Members entitled to vote and not present in person or by proxy, signs a written waiver of notice, or a consent of the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporation records or made a part of the minutes of the meeting.

Section 6. Action Without a Meeting. Any action, which under the provisions of the Montana Non-Profit Corporation Act may be taken at a meeting of the Members, may be taken without a meeting if authorized by a writing signed by all of the Members who would be entitled to vote at a meeting for such purpose, and filed with the Secretary of the Association.

Section 7. Proxies. Every person entitled to vote or execute consents shall have the right to do so either in person or by an agent or agents authorized by a written proxy executed by such person or his duly authorized agent and filed with the Secretary of the Association prior to commencement of the meeting at which the proxy is to be exercised. Every proxy shall be revocable by the person granting it announcing its revocation to the Secretary of the meeting at which it would otherwise be exercised prior to the exercise thereof and shall automatically cease upon sale or conveyance of the person granting the proxy of his interest in his lot.

ARTICLE X. OFFICERS

Section 1. Enumeration of Officers. The officers of the Association shall be a President, Vice President, a Secretary, a Treasurer and such other officers as the Board of Directors may deem necessary.

Any person may hold more than one office, provided that no person may be both the President and Secretary of this Association.

Section 2. Election and Term. The officers shall be chosen by a majority vote of the Directors and shall hold office at the pleasure of the Board of Directors.

Section 3. President. The President shall be the chief executive officer of the Association and shall, subject to the control of the Board of Directors, have supervision, direction and control of the business and officers of the Association. He shall preside at all meetings of the Members and at all meetings of the Board of Directors. He shall have the general powers and duties of management usually vested in the office of the President of a Montana Non-Profit corporation, and shall have such powers and duties as may be prescribed by the Board of Directors or by these By-Laws.

Section 4. Vice President. In the absence or disability of the President, the Vice President shall perform all the duties of the President, and when so acting shall have all powers of, and be subject to all the restrictions upon, the President. The Vice President shall have such other powers and perform such other duties as from time to time may be prescribed for him by the Board of Directors or these By-Laws.

Section 5. Secretary. The Secretary shall keep or cause to be kept, a book of minutes at the principal office or such other place as the Board of Directors may order, all of the meetings of Directors and Members, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those persons present at the Directors' meeting, the number of Members present or represented at Members' meetings and the proceeding thereof.

The Secretary shall give, or cause to be given, notice of all the meetings of the Members and the Board of Directors required by these By-Laws or by law to be given, except that notice of the first annual meeting may be given by the Declarant, and he shall keep the seal of the Association in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or these By-Laws.

Section 6. Treasurer. The Treasurer shall keep and maintain or cause to be kept and maintained, adequate and correct accounts of these properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital and surplus. The books of account shall at all times be open to inspection by any Director. The treasurer shall deposit all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board of Directors. He shall disburse the funds of the Association as may be ordered by the Board of Directors, shall render to the President and Directors, whenever they request it, an account of all his transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors of these By-Laws.

ARTICLE XI. MISCELLANEOUS

Section 1. Checks, Drafts, Etc. All checks, drafts or other orders for payment of money, notes or other evidence of indebtedness, issued in the name of or payable to the association, shall be signed by or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors.

Section 2. Contracts, Etc.- How Executed. The Board of Directors, except as in these By-Laws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or

execute any instrument in the name and on behalf of the Association, and such authority may be general or confined to specific instances; and unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bond the Association by a contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount.

Section 3. Inspection of By-Laws. The Association shall keep in its principal office the original or a copy of the By-Laws as amended or otherwise altered to date, certified by the Secretary, which shall be open to inspection by the Members at all reasonable times during office hours.

Section 4. Books and Records. The books, records and papers of the Association shall be kept at the principal place of business of the Association, and shall at all times, during reasonable business hours, be subject to inspection by any Member.

Section 5. Reports to Members. The Board of Directors shall cause an annual operating statement reflecting income and expenditures of the Association for each year to be prepared and shall cause the delivery of a copy thereof to all Members of the Association within ninety (90) days after the close of each year.

ARTICLE XII. EVIDENCE OF MEMBERSHIP, SEAL

Section 1. Evidence of Membership. The Board shall have the power, but not the obligation, to cause the issuance of evidence of Membership in the Association to the Members thereof in such form as the Board may determine.

Section 2. Seal. The Association shall have a seal in circular form having within its circumference the name of the Association, and such other matters as may be required by the laws of Montana.

ARTICLE XIII. AMENDMENTS

Section 1. Amendments. These By-Laws may be amended at any duly called, noticed and held regular or special meeting of the Members at which a quorum is present by a vote of the majority of the total voting power of each class of Members of the Association present in person or by proxy or at such meeting and entitled to vote thereat.

Section 2. Conflicts. In the event and inconsistency between these By-Laws and the Articles, the Articles shall control and in the event of any inconsistency between these By-Laws or the articles and the Covenants, the Covenants shall control.

Executed this 31 day of October, 2001.

Directors:

Arnell A. Thomas
Jim [unclear]
D. R. [unclear]

