

BY-LAWS

MAY 13 1985

OF

MARINER LAKES ASSOCIATION, INC.

and that no tax was collected. Recorded in  
Book 53  
Page 177 *Shirley D. Oliver* Judge of Probate  
D.P. \$1.00 Index \$ By *GB*

1. IDENTITY. These are the By-Laws of MARINER LAKES ASSOCIATION, INC., an association organized pursuant to the Master Declaration of Covenants, Conditions and Restrictions for Mariner Lakes (hereinafter referred to as the "Declaration") and under the Alabama Non-Profit Corporation Act (Section 10-3-1, et seq., Code of Alabama, 1975) for the purpose of providing for the maintenance, preservation, and control of the properties, common areas, and facilities embraced within the said Declaration and to promote the health, safety and welfare of the residents within said properties, all of which is known as MARINER LAKES and is located in the Romar Beach area, Baldwin County, State of Alabama.

1.1. The office of the Association shall be at Mariner Lakes,  
East Highway 182, Gulf Shores, AL 36542

1.2. The fiscal year of the Association shall be such as may from time to time be established by the Association.

2. MEMBERS' MEETINGS.

2.1. The first annual meeting of the members shall be held within two and one-half years from the date of incorporation of the Association and each subsequent regular annual meeting of the members shall be held at the office of the Association at eleven o'clock A.M. local time on the third Saturday in March of every year for the purpose of electing Directors and of transacting any other business authorized to be transacted by the members; provided, however, if that day is a legal holiday, the meeting shall be held at the same hour on the next day following that is not a legal holiday.

2.2. Change of Date. The time of holding the annual meeting of members may be changed at any time prior to fifteen (15) days before the regular day for holding such meeting by a resolution duly adopted by the Board of Directors or by the members, provided that notice of such change be mailed to each member of record, at such address as appears upon the records of the Association, not less than ten (10) days before the holding of such meeting; and further provided that each annual meeting of members shall be held within one (1) month of the date on which it should regularly have been held but for such change.

2.3. Special members' meetings shall be held whenever called by the President or Vice-President or by a majority of the Board of Directors, and must be called by such officers upon receipt of a written request from members entitled to cast twenty-five (25) percent of the votes in the Association.

2.4. Notice of all members' meetings stating the time and place and the objects for which a meeting is called shall be given by the President or Vice-President or Secretary unless waived in writing. Such notice shall be in writing to each member at his address as it appears on the books of the Association and shall be mailed not less than ten (10) days nor more than sixty (60) days prior to the date of the meeting. Proof of such mailing shall be given by the affidavit of the person giving the notice. Notice of meeting may be waived before or after meetings.

2.5. Voting shall be on a percentage basis and the percentage of the vote to which a member is entitled is the percentage assigned to the Lot, Unit, or Parcel of which the member is the owner, as stated in the Declaration.

2.6. A quorum at members' meetings shall consist of persons entitled to cast one-tenth of the votes of each class of membership, except as otherwise provided in the Articles of Incorporation, the Declaration or these By-Laws.

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2.7. Proxies. Votes may be cast in person or by proxy. Proxies may be made by any person entitled to vote and shall be valid only for the particular meeting designated therein and must be filed with the Secretary before the appointed time of the hearing.

2.8. Vote Required to Transact Business. When a quorum is present at any meeting, the holders of a majority of the voting rights present in person or represented by the written proxy shall decide any questions brought before the meeting, unless the question is one upon which, by express provision of the statutes, the Declaration of Condominium, or the By-Laws, a different number is required, in which case the express provision shall govern and control the decision in question.

Anything herein to the contrary notwithstanding, any action required or permitted to be taken at any meeting of the members of the Association or any committee thereof may be taken without a meeting, if prior to such action a written consent thereto is signed by all members or all the members of such committee, as the case may be, and such written consent is filed with the minutes of proceedings of the Association or committee.

2.9. Adjourned Meetings. Any meeting of the Association may be adjourned from time to time to such date and time as may be determined by majority vote of the members present, whether a quorum be present or not, without notice other than the announcement at the meeting. At any adjourned meeting at which a quorum is present, any business may be transacted which might have been transacted by a quorum at the meeting as originally called.

2.10. The Order of business at annual members' meetings and, as far as practical, at all other members' meetings, shall be:

- (a) Call to order,
- (b) Calling of the roll and certifying of proxies,
- (c) Proof of notice of meeting or waiver of notice,
- (d) Reading and disposal of any unapproved minutes,
- (e) Reports of officers,
- (f) Reports of committees,
- (g) Election of Directors,
- (h) Unfinished business,
- (i) New business,
- (j) Adjournment.

2.11. Cumulative Voting shall not be permitted at any meeting of the owners.

### 3. BOARD OF DIRECTORS

3.1. Membership. The affairs of the Association shall be conducted by a Board of Directors which shall consist of such number not less than three (3) nor more than seven (7), as shall, from time to time, be determined and fixed by a vote of a majority of the voting rights present at any annual meeting of the members who need not be members of the Association.

3.2. Election of Directors shall be conducted in the following manner:

- (a) Directors shall be elected at the annual meeting of the members of the Association. At the first annual meeting, the members shall elect one Director for a term of one year, one Director for a term of two years, and one Director for a term of three years; and at each annual meeting thereafter the members shall elect one Director for a term of three years.

In the event of the death or resignation of one of said Directors prior to the above stated election, a successor Director shall be designated by BROADMOOR REALTY, INC., the Developer; thereafter, subsequent Directors shall be selected in accordance with the By-Laws.

(b) Except as to vacancies created by removal of Directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining Directors.

(c) Any Director may be removed by concurrence of majority of the members of the Association at a special meeting of the members called for that purpose. The vacancy thus created shall be filled at the same meeting by the members of the Association in the same manner as was provided for the election of the removed Director.

3.3. The term of each Director's services 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 elsewhere provided.

3.4. The organization meeting of a newly elected Board of Directors shall be held within ten (10) 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 organization meeting shall be necessary provided a quorum shall be present.

3.5. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegraph, at least three (3) days prior to the day named for such meeting.

3.6. Special Meetings of the Directors may be called by the President, and must be called by the Secretary at the written request of one-third (1/3) of the votes of the Board. Not less than three (3) days notice of the meeting shall be given personally or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting.

3.7. Waiver of notice. Any Director may waive notice of a meeting before or after the meeting, and such waiver shall be deemed equivalent to the giving of notice.

3.8. A quorum at Directors' meetings shall consist of the Directors entitled to cast a majority of the votes of the entire Board of Directors. The acts of the Board approved by a majority of votes present at a meeting at which a quorum is present shall constitute the acts of the Board of Directors, except where approval by a greater number of Directors is required by the Declaration of Condominium or by these By-Laws. 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 until a quorum is present. At any 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.

3.9. The presiding officer of Directors' meetings shall be the President. In the absence of the President, the Directors present shall designate one of their number to preside.

3.10. Directors shall serve without compensation and a Director may not be an employee of the Association.

4. POWERS AND DUTIES OF THE BOARD OF DIRECTORS. The Board of Directors, for the benefit of the Owners, shall have the following powers and duties:

4.1. To exercise all of the powers of the Association with respect to the operation and regulation of the common areas and facilities which may be conferred upon the Board by these By-Laws, and to exercise all of the powers of the Association which are conferred upon it by law, and by its Articles of Incorporation, and by the Declaration.

4.2 To exercise for the Association all powers, duties and authority vested in a delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation or the Declaration.

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4.3. To make contracts and incur liabilities in connection with the exercise of any of the powers and duties of the Board.

4.4. To provide or cause to be provided all goods and services required by the By-Laws, or by law or by the Declaration, or which the Board, in its discretion, deems necessary for the proper operation of the common areas and facilities.

4.5. To collect monthly assessments from the Owners, and to render or cause to be rendered statements, when required or useful, of any assessments which remain unpaid by any Owner.

4.6. To maintain a class action, and to settle a cause of action, on behalf of the Owners with reference to the common areas, and to bring an action, and to settle the same, on behalf of two (2) or more of the Owners, as their respective interests may appear, with respect to any cause of action relating to the common areas, all as the Board deems advisable.

4.7. To elect the Officers of the Association and otherwise exercise the powers regarding Officers of the Association as set forth in these By-Laws.

4.8. To determine who shall be authorized to make and sign all instruments on behalf of the Association and the Board.

4.9. To employ a management agent or manager, at a compensation established by the Board, to perform such duties and services as the Board shall authorize including, but not limited to, the duties listed in this Section; and such duties so conferred upon the managing agent or manager by the board of Directors may at any moment be revoked modified or amplified by the majority of the votes in a duly constituted meeting.

4.10. To designate and remove personnel necessary for the maintenance, repair and replacement of the common areas.

4.11. To procure such property and other insurance that may be required by the Declaration as well as other insurance of all kinds and such fidelity bonds as the Board deems advisable covering Officers and employees of the Association handling and responsible for the Association's funds and personal property, and to procure Directors' and Officers' liability insurance if the Board deems it advisable; and the premiums of such bonds and insurance shall be paid by the Association as common expenses.

4.12. To determine policies and to adopt administrative rules and regulations governing the details of the operation and use of the common areas and facilities, and to amend such administrative rules and regulations from time to time as the Board deems advisable.

4.13. To designate, by resolution passed by a majority of the whole Board, one (1) or more committees to consist of two (2) or more of the Directors. Any such committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the business and affairs of the corporation, except where action of the full Board of Directors is required by law, the Articles of Incorporation, the Declaration or the By-Laws.

4.14. To designate, by resolution adopted by a majority of the Directors present at a meeting at which a quorum is present, or by the President thereunto duly authorized by a like resolution of the Board of Directors, other committees not having and exercising the authority of the Board of Directors in the management of the affairs of the corporation. Membership on such committees may, but need not be limited to Directors or members of the Association.

4.15. All committees so appointed shall keep regular minutes of the transactions of their meetings, and shall cause them to be recorded in books kept for that purpose in the Office of the Association, and shall report the same to the Board of Directors at the next meeting of such Board.

Fund remaining after full payment of all common expenses of the Association shall be distributed to all owners in their respective proportionate shares. Such assessments shall be due in monthly installments on the 1st day of each month of the year for which the assessments are made. If such annual assessment is not made as required, an installment in the amount last required by the last prior assessment shall be due upon each installment payment date until changed by a new assessment. The total of the assessments for recurring common expenses shall not be more than one hundred twenty (120) percent of the assessments for this purpose for the prior year unless approved in writing by owners entitled to cast a majority of the votes of each class of membership in the Association. In the event such an annual assessment proves to be insufficient, it may be amended at any time after approved in writing by owners entitled to cast a majority of the votes of each class of membership in the Association, and the amended assessment for the remaining portion of the calendar year shall be due at the time the next monthly installment is due. The first assessment shall be determined by the Board of Directors of the Association.

6.3. Assessments for Capital Improvements. Upon written notice to all the owners and upon approval in writing by owners entitled to cast a majority of the votes of each class of membership in the Association, the Board may establish and maintain one (1) or more capital reserve accounts, by the assessment of and payment by all the owners in equal monthly installments of their respective proportionate shares of such reasonable annual amount, for such term of years as the Board may estimate as needed to cover each unit owner's obligations to provide for specified capital improvements, such as, by way of illustration and not limitation, the purchase of additional property, the paving or repaving of streets and areas, the construction or reconstruction of common areas and facilities. Each such capital reserve account shall be earmarked, segregated from other accounts, and designated for the specific capital improvement for which the assessment is made and the funds of each such capital reserve account shall not be comingled with the general assessment funds of the Association but shall be deposited in a special account similarly earmarked and designated. The proportionate interest of each owner in each such capital reserve account cannot be withdrawn or separately assigned but shall be deemed to be transferred with such Lot, Unit or Parcel even though not expressly mentioned or described in the conveyance thereof. In case the Association shall be terminated, any part of each such capital reserve account remaining after full payment of all common expenses of the Association shall be distributed to all owners in their respective proportionate shares.

6.4. Assessments for Emergencies. Assessments for common expenses for emergencies which cannot be paid from the assessments for recurring expenses shall be made only after notice of the need therefore to the owners concerned. After such notice and upon approval in writing of more than one-half (1/2) of such owners concerned, the assessment shall become effective, and it shall be due after thirty (30) days notice thereof in such manner as the Board of Directors of the Association may require.

6.5. Acceleration of Assessment Installments upon Default. If an owner shall be in default in the payment of an installment upon any assessment, the Board of Directors may accelerate the remaining installments of such assessment upon notice thereof to the owner, and thereupon the unpaid balance of the assessment shall come due upon the date stated in the notice, but not less than ten (10) days after delivery thereof to the owner, or not less than twenty (20) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

6.6. Default.

(a) In the event an owner of a Lot, Unit or Parcel does not pay any sums, charges or assessments required to be paid to the Association within thirty (30) days from the due date, the Association may foreclose the lien encumbering the Lot, Unit or Parcel created by non-payment of the required monies in the same fashion as mortgage liens are foreclosed; provided that thirty (30) days prior notice of the intention to foreclose shall be mailed postage prepaid, to the owner and to all persons having a mortgage lien or other interest of record in such Lot, Unit or Parcel as shown in the Association's

record of ownership. The Association shall be entitled to the appointment of a Receiver, if it so requests. The Association shall have the right to bid in the Lot, Unit or Parcel at a foreclosure sale and to acquire, hold, mortgage and convey the same. In any such foreclosure action, the lien of the Association shall be subordinate and inferior to tax liens in favor of the State, County, and any municipality and any special district, and any first mortgage liens of record encumbering such Lot, Unit or Parcel at the time of the commencement of the foreclosure action by the Association. In lieu of foreclosing its lien, the Association may bring suit to recover a money judgement for any sums, charges or assessments required to be paid to the Association without waiving its lien securing the same. In any action either to foreclose its lien or to recover a money judgement, brought by or on behalf of the Association against an owner, the losing defendant shall pay the cost thereof together with a reasonable attorney's fee.

(b) If the Association becomes the owner of a Lot, Unit or Parcel by reason of foreclosure, it shall offer said unit for sale and at such time as a sale is consummated, it shall deduct from such proceeds all sums of money due it for monthly assessments and charges, all costs incurred in the bringing of the foreclosure suit, including reasonable attorney's fees, any and all expenses incurred in the re-sale of the Lot, Unit or Parcel, which shall include but not be limited to advertising expenses, real estate brokerage fees, abstract or title insurance costs, and expenses necessary for the repairing and refurbishing of the Lot, Unit or Parcel in question. All monies remaining after deducting the foregoing items of expense shall be returned to the former owner in question.

6.7. The depository of the Association shall be such bank or banks as shall be designated from time to time by the Directors and in which monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by such persons as are authorized by the Directors.

6.8. After the first annual meetings of the members and before the second annual meeting, an audit of the accounts of the Association shall be made annually by a certified public accountant, not a member of the Association, and a copy of the report shall be furnished to each member not later than April 1st of the year following the year for which the report is made.

## 7. OBLIGATIONS OF THE OWNERS.

7.1. Assessments. Every owner of any Lot, Unit or Parcel in the condominium shall contribute prorata toward the expense of administration, maintenance and repair, as provided in the Declaration and in these By-Laws.

7.2. Use. Every Owner shall comply strictly with the provisions of the Act, the Declaration, the By-Laws and the Rules. In the event of the failure of any Owner to do so, the Association may sue to recover sums due, and/or damages, and/or injunctive relief, and for its costs and expenses therein, including a reasonable attorney's fee.

7.3. Right of Entry. The manager and any person authorized by the Board of Directors shall have the right to enter into each Lot, Unit or Parcel in case of an emergency originating in or threatening such unit whether or not the Owner or occupant is present at the time.

7.4. Title. Every Owner shall promptly cause to be duly recorded in the Office of the Judge of Probate of Baldwin County, Alabama, the deed or other conveyance to him of his Lot, Unit or Parcel or other evidence of his title thereto and file such evidence of his title with the Association, and the Secretary shall maintain such information in the record of ownership of the Association.

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7.5. Mortgagees.

(a) Any mortgagee of a unit may file a copy of its mortgage with the Association, and the Secretary shall maintain such information in the record of ownership of the Association. After the filing of the mortgage, the Association shall be required to notify the mortgagee of any owner who is in default in the common expenses and the mortgagee at its option may pay the delinquent expenses; and the holder of every such mortgage requesting the same shall be entitled to written notification from the Association of any default by the mortgagor of such Lot, Unit or Parcel in the performance of such mortgagor's obligations under the Declaration which is not cured within thirty (30) days.

(b) The Association must make available for inspection, upon written request, during normal business hours or under other reasonable circumstances to Lot, Unit or Parcel owners and to the mortgagees of first mortgages upon any unit, their holders, assigns, insurers or guarantors, current copies of the Declaration, By-Laws, other rules concerning the Association, and the books, records and financial statements of the Association.

(c) The Association must make available for inspection, upon written request, during normal business hours or under other reasonable circumstances, to any holder of a first mortgage upon any Lot, Unit or Parcel, a financial statement of the Association for the immediate preceding fiscal year.

7.6. Miscellaneous records and such other records as are required by the Declaration or these By-Laws or as may be deemed necessary by the Board of Directors shall be maintained by the Association.

8. AGENT TO RECEIVE SERVICE OF PROCESS. The following person, who is a resident of the State of Alabama, is designated as agent to receive service of process upon the Association:


James M. Edwards

444 South Perry Street  
Montgomery, Alabama 36104

9. PARLIAMENTARY RULES. Roberts Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration or these By-Laws.

10. AMENDMENTS. These By-Laws may be amended by following the provisions of the Declaration

The foregoing were adopted as the By-Laws of MARINER LAKES ASSOCIATION, INC., at the first meeting of the Board of Directors on the 12th day of April, 1985.

  
\_\_\_\_\_  
SECRETARY

APPROVED:

  
\_\_\_\_\_  
PRESIDENT

This document prepared by: Lanier Branch  
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