

**AMENDED**  
**BY-LAWS OF MISSION BAY**  
**HOMEOWNER'S ASSOCIATION, INC.**  
**A Montana Non-Profit Corporation**

**WHEREAS**, a mail in ballot for the adoption of these Amended By-Laws was mailed to the Association Members on the 8 day of October, 2021; and

**WHEREAS**, one hundred six (106) ballots were returned by the Members on or before the November 2, 2021 due date; and

**WHEREAS**, there were one hundred one (101) votes in favor of adopting these Amended By-Laws of Mission Bay Homeowners Association, Inc. and there were five (5) votes against; and

**WHEREAS**, Members representing greater than two-thirds of the votes cast approved the adoption of these Amended By-Laws in conformance with Montana Law.

**NOW THEREFORE**, Mission Bay Homeowners Association, Inc., a Montana non-profit corporation, hereby adopts Amended By-Laws as set forth below.

**ARTICLE I. INTRODUCTION**

The provisions of these Amended By-Laws shall apply to and govern the Mission Bay 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, Covenants and Rules covering the Properties.

**ARTICLE II. DEFINITIONS**

The following words shall have the following meanings when used in these By-Laws:

"Association", "Common Area", "Lot", "Member" and "Owner" shall have the meanings set forth in the "Covenants" as the same are hereinafter defined.

"Articles" shall mean the Articles of Incorporation of the Association as said Articles are amended from time to time.

"Board" shall mean the Board of Directors of the Association.

595130 MISC                      Pages: 11  
STATE OF MONTANA LAKE COUNTY  
RECORDED: 01/05/2022 2:26 KOI: MISC  
KATIE HARDING CLERK AND RECORDER  
FEE: \$5.00 BY: Katie Harding  
TO: LAKE COUNTY PERMANENT FILES, 106 4TH AVE E, POLSON MT

By-Laws - 1

1546-C

"Covenants" shall mean and refer to certain "Restated Declaration of Covenants, Conditions and Restrictions for Fairway Properties II, Mission Bay Phases I, II, III, IV, V, VI, VII, VIII and IX, Brown's Lakeview Lots 5-14 and Mission Bay Village" dated December 30, 2004 and recorded on January 5, 2005 as recorded in the office of the Clerk and Recorder of Lake County, Montana recorded under Microfilm No. 454726, together with any and all amendments thereto.

"Design Review Committee" shall mean the Committee created by the Board of Directors of the Association pursuant to Article VIII of the Covenants.

"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.

### **ARTICLE III. PRINCIPAL OFFICE**

The principal office of the Association shall be located at 312 Montana Landing, Polson, MT, but meetings of the Members and Board may be held at such other 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 as the same may from time to time be amended.
- (c) Transfer of Membership. The Association Membership of each Owner 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. 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.

#### **ARTICLE V. MEMBERSHIP ASSESSMENT AND LIEN RIGHTS**

Section 1. Membership Assessment. Regular, annual, and 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 set forth in these By-Laws or the Covenants, such acts having been 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 recreational 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 remains unpaid and delinquent; for any period during which a Member or Members are in violation of the Covenants as determined in the sole discretion of the Board; and, for a period not to exceed sixty (60) day for any infraction of the Rules adopted by the Association committed by the 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 ten (10) days prior to the holding of such meeting. Such notice shall be given

either by personal delivery or deposited in the United States mail, certified or registered and fees prepaid, return receipt requested, to the address given to the Association by such Member for the purpose of giving notice. Member whose rights are being sought to be suspended shall be entitled to appear at such meeting and present a case as to why such rights should not be suspended in accordance with the provision of this Section and such suspension shall only be affected by a majority of the Members of the Board present at such meeting. No action taken at such meeting shall be effective unless a quorum of the Board is present at such meeting.

#### **ARTICLE VII. DIRECTORS**

**Section 1. Powers and Duties.** Subject to the limitations of the Articles, these By-Laws, the Covenants and the Montana Non-Profit Corporation Act 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 Covenants shall be exercised or controlled by the Board. 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 in the Covenants.
- (b) Have the owner adopt and amend Association Rules and Regulations governing the use of the Common Area, and the personal conduct of Members and their guests thereon in the manner provide for in 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 maintain park and picnic areas, and the costs and expenses of the performance by the Board of all of its duties and powers shall be paid out of the assessments so made and collected.
- (d) Have the power in the event that any Member of the Board shall be absent from four (4) consecutive regular meetings of the Board, by action taken at the meeting during which said fourth absence occurs to declare the office of the said absent Director to be vacant.
- (e) When deemed necessary, employ a professional manager and may 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.



- (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 or at any duly called special meeting of the Members.
- (g) Supervise all of the officers, agents and employees and committees of the Association, and to see that their duties are properly performed.
- (h) Appoint 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.

#### Section 2. Number, Qualification and Tenure.

- (a) The affairs of the Association shall be managed by a Board of no less than five (5) and no more than seven (7) Directors. Effective as of the date of these Amended By-Laws, the number of Directors shall be seven (7).
- (b) Each Director shall be a Member of the Association with no irreconcilable conflict of interest with the Association.
- (c) Upon the adoption of these Amended By-Laws, the number of Directors of the Association shall be seven (7). Directors' terms of office shall be three (3) years. Director's terms shall be staggered in such a manner that three (3) Director's terms shall expire in the calendar year 2022; and two (2) Director's terms shall expire in the calendar year 2023; and two (2) Director's terms shall expire in the calendar year 2024. The initial appointment of Directors to fill vacancies may be for a term of less than three (3) years to accomplish the staggered three-year terms set forth above.

Section 3. Application and Ballot. Upon expiration of a Director's term, a Notice of and Application for Board Vacancy shall be sent regular mail to all Members in good standing, sixty (60) days prior to the scheduled annual meeting. Applicants must return the completed Application within 15 days of the mailing.

The names of all Member applicants completing such Application will be listed alphabetically on the prepared ballot. A copy of their information will be included with the ballots when sent out to the Members. All ballots will be sent out via regular mail with the Notice of Annual Meeting at least thirty (30) days prior to the date of the scheduled 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 of the Articles. Votes will be tabulated prior to the annual meeting and 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, the successor shall be appointed by the remaining Directors of the Board to serve for the unexpired term of their predecessor.

Section 6. Regular Meetings. Immediately following the 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 with 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 regular business 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 (2) 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 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 rendered to the Association. However, any Director may be reimbursed for actual expenses incurred in the performance of duties.

#### **ARTICLE VIII. COMMITTEES**

Section 1. Appointment. The Board shall appoint (and have the power to remove) Members of the Design Review Committee to be designated by the Association subject to the requirements and limitations set forth in the Covenants. The Board may also appoint other committees to address specific issues in order to make recommendations to the Board and provide them with a specific plan of action. Each committee shall have direct oversight by a Board Member.

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 or her actual authorized expenses incurred in the performance of his or her duties.

## **ARTICLE IX. MEETING OF MEMBERS**

**Section 1. Annual Meeting.** Each regular annual meeting of the Members shall be held on the second Saturday of June at the hour of 10:00 a.m., at the principal office of the Corporation or upon notice, such other place within the State of Montana as designated by the Board business. If the day for a given annual meeting is a legal holiday or Sunday, such meeting will be held on the first day following which is not a legal holiday. At the annual meeting 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 one-fourth (1/4) of the Members who are entitled to vote.

**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 notice, except that written notice of any meeting called for the purpose of approving assessments or election of Board of Directors shall be given not less than thirty (30) days nor more than sixty (60) day 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 any Members or of proxies entitled to cast 25% of all the Association Membership votes shall constitute a quorum for any actions. If not otherwise provided herein, and if such quorum shall not be present or represented at the meeting, the Members entitled to vote hereat 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 shall be present or represented. The Members present in person or by proxy 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 voting power of the Association for the purposes of these By-Laws, the Articles and the Covenants, voting rights which have been suspended in accordance with the Covenants or 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 a quorum of all of the Members who would be entitled to vote at a meeting for such purpose, and filed with the Secretary of the Association. Written notice of any action so taken shall be given to all Members who did not sign such written consent.

Section 7. Proxies. Every person entitled to vote or execute consents shall have the right to do so either in person or written proxy delivered to 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, Secretary, 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 the 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. The President shall preside at all meetings of the Members and at all meetings of the Board of Directors. The President, along with the Secretary of the Corporation, must sign the annual statements, all deeds, mortgages, bonds, contracts or other instruments authorized by the Board of Directors, except in cases where the signing and execution of such documents shall be expressly delegated by the Board or the By-Laws to another or shall otherwise be required under the Laws of the State of Montana or Articles of Incorporation. The President 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 the 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 or her 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 proceedings 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; keep a register of the post office addresses of each Member; have general charge of the membership roles of the Corporation and the Secretary 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. The Treasurer 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 or her 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. 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 business hours.

Section 3. 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 4. 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.

Section 5. Fiscal Year. The fiscal year of the Association shall terminate on December 31<sup>st</sup>.

#### **ARTICLE XII. EVIDENCE OF MEMBERSHIP AND 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**

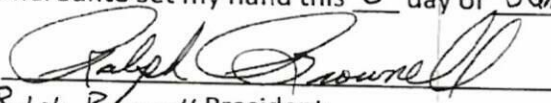
Section 1. Amendments. These By-Laws may be amended at any duly called, noticed and held regular or special meeting of the Members at which a quorum is present by: 1) a vote of two-thirds majority of the total voting power of Members of the Association present in person or by proxy or at such meeting and entitled to vote thereat; or 2) a majority of the voting power (one vote for each Lot in the subdivision), whichever is less.

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 the 5 day of January, 2022.

THIS IS TO CERTIFY that I am the duly elected, qualified and acting Secretary of Mission Bay Homeowners Association, Inc., a Montana Non-Profit Corporation and that the above and foregoing By-Laws were adopted as the By-Laws of said Association on the 5 day of January, 2022 by the persons appointed in the Articles of Incorporation to act as the first Directors of the Association.

IN WITNESS WHEREOF, I have hereunto set my hand this 5 day of January, 2022.

  
Ralph Brownell President

ATTEST:

  
Allen R. Bone Secretary



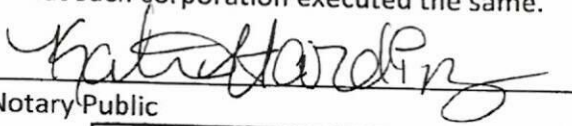
595130

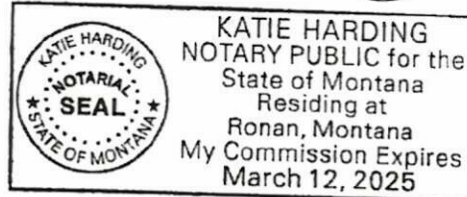
STATE OF MONTANA )

:SS

County of Lake )

On this 5<sup>th</sup> day of January, 2022, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Ralph Brownell, known to me to be the President of Mission Bay Homeowners Association, Inc., the Corporation that executed the within instruments, and acknowledged to me that such corporation executed the same.

  
Notary Public

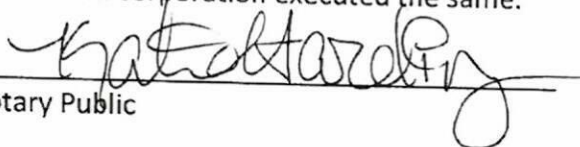


STATE OF MONTANA )

:SS

County of Lake )

On this 5<sup>th</sup> day of January, 2022, before me, the undersigned, a Notary Public for the State of Montana, personally appeared Allen Bone, known to me to be the Secretary of Mission Bay Homeowners Association, Inc., the Corporation that executed the within instruments, and acknowledged to me that such corporation executed the same.

  
Notary Public

