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BALDWIN COUNTY
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# AMENDED
# BY-LAWS
# OF
# SUGAR BEACH CONDOMINIUM ASSOCIATION, INC.

## ARTICLE I

NAME AND LOCATION. The name of the Corporation is Sugar Beach Condominium Association, Inc., hereinafter referred to as the "Corporation". The principal office of the Corporation shall be located at 23044 Perdido Beach Boulevard, Orange Beach, Alabama 35561, but meetings of members and directors may be held at such places within the State of Alabama, as may be designated by the Board of Directors.

## ARTICLE II
## MEETING OF MEMBERS

SECTION 1. ANNUAL MEETING. A meeting of the association must be held at least once each year. Special meetings of the association may be called by the president, a majority of the board or by unit owners having 20 percent of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting, the secretary shall cause notice to be sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner. 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 bylaws, any budget changes, and any proposal to remove an officer or a member of the board.

SECTION 2. ADJOURNED MEETINGS. Any meeting of the Association may be adjourned from time to time 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.

SECTION 3. THE ORDER OF BUSINESS. At annual member's meetings and, as far as practical, at all other member's 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

SECTION 4. QUORUM. A quorum is present throughout any meeting of the association if persons entitled to cast 20 percent of the votes which may be cast for election of the board are present in person or by proxy at the beginning of the meeting.

SECTION 5. VOTING PROXIES.

(a) If only one of the multiple owners of a unit is present at a meeting of the association, he is entitled to cast all the votes allocated to that unit. If more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners, unless either the declaration or bylaws expressly provides otherwise. There is majority agreement if any one of the multiple owners casts the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any other owners of the unit.

(b) Votes allocated to a unit may be cast pursuant to a proxy duly executed by the unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy given pursuant to this section except by actual notice of revocation to the person presiding over a meeting of the association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date, unless it specifies a shorter term.

(c) No votes allocated to a unit owned by the association may be cast.

## ARTICLE III
## BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

SECTION 1. NUMBER. The affairs of this Corporation shall be managed by a Board of not less than three (3) nor more than seven (7) directors, who must be members of the Corporation.

SECTION 2. TERM OF OFFICE. At the first annual meeting, the members shall elect one (1) director for a term of one (1) year, two (2) directors for a term of two (2) years; and at each annual meeting thereafter, the members shall elect the needed number of directors for a term of two (2) years.

SECTION 3. REMOVAL. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Corporation. 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 4. COMPENSATION. No director shall receive compensation for any service he may render to the Corporation. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

SECTION 5. ACTION TAKEN 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. Any action so approved shall have the same effect as though taken at a meeting of the directors.

## ARTICLE IV
## NOMINATION AN ELECTION OF DIRECTORS

SECTION 1. NOMINATION. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nomination may be also be made from the floor at the annual meeting. The Nominating Committee shall consist of members of the Corporation. 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 and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine, but not less than the number of vacancies that are to be filled. Such nomination may be made only from among members.

SECTION 2. ELECTION. Election to the Board of Directors shall be by secret written ballot. At such election, the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of these By-Laws. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

SECTION 3. A Director may serve so long as he is a valid member of the association an upon termination of his membership by transfer of his unit.

## ARTICLE V
## MEETING OF DIRECTORS

SECTION 1. REGULAR MEETING. Regular meetings of the Board of Directors shall be held 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 2. SPECIAL MEETINGS. Special meetings of the Board of Directors shall be held when called by the president of the Corporation or by any two (2) or more directors, after not less than five (5) days notice to each director.

SECTION 3. QUORUM. A majority of the number 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 quorum is present shall be regarded as the act of the Board.



## ARTICLE VI
## POWERS AND DUTIES OF THE BOARD OF DIRECTORS

SECTION 1. POWERS. The Board of Directors shall have power to:

(a) adopt and publish Rules and Regulations governing the use of the facilities of the Corporation, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use of the facilities of a member during any period in which such member shall be default in the payment of any assessment levied by the Corporation. Such rights may also be suspended after notice and hearing for a period of sixty (60) days for infraction of published Rules and Regulations; except for nonpayment of assessments and dues.

(c) exercise for the Corporation all powers, duties and authority vested in or deposited to this Corporation and not reserved to the membership.

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors, without good cause.

(e) employ a manager, an independent contractor, or such other employees as they deem necessary and to prescribe their duties; with the consent of the majority of the membership.

(f) amend and modify these By-Laws as the Board may determine at next meeting of unit owners.

SECTION 2. DUTIES. It shall be the duty of the Board of Directors to:

(a) cause to be kept complete record of all its acts and corporate affairs, and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the members who are entitled to vote;

(b) supervise all officers, agents and employees of this Corporation and to see that their duties are properly performed.

(c) establish the annual assessment period and fix the amount of the annual assessment against each member for each Condominium Unit owned at least thirty (30) days in advance of each annual assessment with the consent of the majority of members.

(d) send written notice of each assessment to every Unit Owner and, where appropriate at least thirty (30) days in advance of each annual assessment period, and levy all such assessments as liens;

(e) foreclosed the lien against any property for which assessments are not paid within ninety (90) days after due date or to being an action at law against the Owner personally obligated to pay the same, after complying with 35-8A-316.

(f) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(g) procure and maintain liability, fire, and other hazard insurance on property owned by the Corporation as prescribed by the Articles.

(h) cause all officers or employees having fiscal responsibilities to be bonded as prescribed in the Declaration and Articles.

(i) cause all of the facilities to be maintained; and

(j) adopt these By-Laws for the Association and to amend same from time to time as circumstances may require, with the consent of the majority of the membership.

## ARTICLE VII
## OFFICERS AND THEIR DUTIES

SECTION 1. ENUMERATION OF OFFICES. The officers of this Corporation shall be a president and vice-president, a secretary and a treasurer, who shall at all times be members of the Board of Directors, and such other officers as the Board may from time to time by resolution create.

SECTION 2. ELECTION OF OFFICERS. The election of officers shall take place at the first meeting of the Board of Directors and following each annual meeting of the members thereafter.

SECTION 3. <u>TERM</u>. The officers of this Corporation shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

SECTION 4. <u>SPECIAL APPOINTMENTS</u>. The Board may elect such officers as the affairs of the Corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may from time to time determine.

SECTION 5. <u>RESIGNATION AND REMOVAL</u>. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. <u>VACANCIES</u>. A vacancy in any office may be filled by appointment of the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

SECTION 7. <u>MULTIPLE OFFICES</u>. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

SECTION 8. <u>DUTIES</u>. The duties of the officers are as follows:



<u>President</u>

(a) The president shall preside at all meetings of the Board of Directors, shall see that order and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall sign, as president, all instruments of indebtedness for the Corporation, and certify all amendments to be recorded.

<u>Vice-President</u>

(b) The vice-president shall act in the place and stead of the president in such event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him/her by the Board.

<u>Secretary</u>

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Corporation and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Corporation together with their addresses, and shall perform such other duties as required by the Board, including the certification of all amendments to be recorded.

<u>Treasurer</u>

(d) The treasurer shall receive and deposit or cause to be received and deposited, in appropriate bank accounts all monies of the Corporation and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory note of the Corporation; keep proper books of account;

cause an annual audit of the Corporation books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members. The treasurer may delegate the herein described duties, or portions thereof, to the Agent Manager, however, it shall be the responsibility of the treasurer to oversee the proper accounting of all corporate receipts and disbursements.

## ARTICLE VIII
## COMMITTEES

The Board of Directors shall appoint such committees as deemed appropriate in carrying out its purpose.

## ARTICLE IX
## BOOKS AND RECORDS

The books, records and papers of the Corporation shall at all times, during reasonable business hours, be subject to inspection by any member. The Articles and the By-Laws of the Corporation shall be available for inspection by any member at the principal office of the Corporation, where copies may be purchased at reasonable cost.

## ARTICLE X
## FISCAL MANAGEMENT

SECTION 1. <u>ASSESSMENTS</u>. The Board of Directors shall determine the common expenses of the association and adopt a budget for each fiscal year of such estimated common expenses, including, but not limited to, a reasonable allowance for contingencies and reserves less the unneeded fund balances on hand. Within thirty (30) days after the adoption of the proposed budget, the board shall provide a copy of the budget to all unit owners of record as of that date, and shall set a date for a meeting of the unit owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the budget to the unit owners. Unless at that meeting a majority of all of the unit owners present in person or by proxy reject the budget, the budget is ratified, whether or not a quorum is present. In the event that membership is rejected, the last budget ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the Board.

SECTION 2. <u>BUDGET.</u> The Board of Directors shall determine the common expenses of the Association and adopt a budget for each fiscal year of such estimated common expenses, including a reasonable allowance for contingencies and reserves less the unneeded fund balances on hand. Copies of the budget and proposed assessments shall be transmitted to each member within thirty (30) days after adoption of a proposed budget before the annual meeting preceding the year for which the budget is made. If the budget is subsequently amended before the assessments are made, a copy of the amended budget shall be furnished each member. Delivery of a copy of the budget to each Owner shall not affect the liability of any Owner for any existing or future assessments.

SECTION 3. <u>ASSESSMENTS FOR RECURRING EXPENSES</u>. Assessments for recurring common expenses shall be made for the fiscal year annually in advance, on or before the annual meeting preceding the year for which the assessments are made. The Board may include a Maintenance Fund Reserve for contingencies in such assessments, and such Maintenance Fund Reserve may from time to time be increased or reduced at the discretion of the Board. The proportionate interest of each unit owner in said Fund cannot be withdrawn or separately assigned but shall be deemed to be transferred with such unit owner even though not expressly mentioned or described in the conveyance thereof. In case the condominium regime hereby created shall be terminated and the property removed from the condominium of all common expenses of the Association shall be distributed to all unit owners in their respective proportionate shares. Such assessments shall be due in monthly installments on the 1st day of each month 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. Said assessment shall be determined solely by the proportional ownership of the common property by each unit. 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 unit owners entitled to cast a majority of the votes in the Association. In the event such an annual assessment proved to be sufficient, it may be amended at any time after approved in writing by unit owners entitled to cast a majority of the votes 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.

SECTION 4. <u>ASSESSMENTS FOR CAPITAL IMPROVEMENTS</u>. The Board may establish and maintain one or more capital reserve accounts 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 elements and the like. each such capital reserve account shall be earmarked, segregated from other accounts, and the funds of each such capital reserve account shall not be commingled with the general assessment funds of the Association and designated. The proportionate interest of each unit owner in each such capital reserve account cannot be withdrawn or separately assigned but shall be deemed to be transferred with such unit even though not expressly mentioned or described in the conveyance thereof. In case the condominium regime hereby created shall be terminated and the property removed from the Condominium Ownership Act, any part of each such capital reserve account remaining after full payment of all common expenses of the Association shall be distributed to all unit owners, involved in the assessment, in their respective proportionate shares.



SECTION 5. ASSESSMENTS FOR EMERGENCIES. Emergency assessments for common expenses cannot be paid by the unit owners concerned until after such notice and upon approval in writing of more than one half (1/2) of such unit owners affected; the assessment shall become effective, and it shall be due there after in such manner as the Board of Directors of the Association may require.

SECTION 6. <u>ACCELERATION OF ASSESSMENT INSTALLMENTS UPON DEFAULT</u>. If a unit owner shall be in default in the payment of any installment upon any assessments, the Board of Directors may accelerate the remaining installments of such assessment upon notice thereof to the unit owner, and thereupon the unpaid balance of the assessment shall come due, plus interest, upon the date stated in the notice, but not less than ten (10) days after delivery thereof to the unit 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.

the required monies in the same fashion as mortgage liens 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 unit owner and to all personal having a mortgage lien or other interest of record in such unit 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 on the unit at a foreclosure shall 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 any municipality and any special district, and any first mortgage liens of record encumbering such unit 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 judgment 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 judgment, brought by or on behalf of the Association against a unit owner, the losing defendant shall pay the cost thereof together with a reasonable attorney's fee.

(b) If the Association becomes the owner of unit 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, and any and all expenses incurred in the re-sale of the unit, which shall include but not limited to advertising expenses, real estate brokerage necessary for the repairing and refurbishing of the unit in question. All monies remaining after deducting the foregoing items of expense shall be returned to the former owner of the unit in question.

SECTION 8. <u>THE DEPOSITORY</u> 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.

SECTION 9. <u>AN AUDIT</u> of the account 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 and mortgagees on file not later than April 1st of the year following the year for which the report is made.

SECTION 10. The Association shall establish and maintain an adequate <u>Reserve Fund</u> for the periodic maintenance, repair, and replacement to the common areas which the Association is obligated to maintain. The fund shall be maintained from regular assessments.

SECTION 11. <u>ANY LIEN</u> of the Sugar Beach Condominium Association for common expense, assessments, or other charges which became payable on or after the date of recordation of any first mortgage on any unit shall be subordinate to said first mortgage. A lien for common expense assessments shall not be affected by any sale or transfer of a unit, except a sale or transfer pursuant to foreclosure of a first mortgage shall extinguish a subordinate lien for assessments which became payable prior to said sale or transfer. However, any such delinquent assessments which would be extinguished pursuant to the foregoing provision may be reallocated and assessed to all of the units as a common expense. Any such sale or transfer pursuant to foreclosure does not relieve the purchaser or transferrer of a unit from liability for, nor the unit from being subject to lien due to any assessments made thereafter.

SECTION 12. <u>LIEN FOR ASSESSMENTS.</u>
(a) The Association has a lien on a unit for any assessment

levied against that unit or fines imposed against its unit owner from the time the assessment or fine becomes due. The Association's lien may be foreclosed in like manner as a mortgage on real estate but the Board shall give reasonable advance notice of its proposed action to the unit owner and all lienholders of record of the unit. Unless the declaration otherwise provides, fees, charges, late charges, fines, and interest charges pursuant to section 35-8A-302(a)(10), (11), and (12) are enforceable as assessments under this section. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due.

(b) A lien under this section shall be prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the recordation of the declaration, (ii) a first security interest on the unit recorded before the date on which the assessment sought to be enforced became delinquent, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit. The lien is also prior to the mortgages and deeds of trust described in clause (ii) above to the extent of the common expense assessments based on the periodic budget adopted by the Association pursuant to section 35-8A-315(a) which would have become due in the absence of acceleration during the six months immediately preceding institution of an action to enforce the lien. This subsection does not affect the priority of mechanics' or materialmen's liens, or the priority of liens for the other assessments made by the Association. The lien under this section is not subject to the provisions of homestead or other exemption.

(c) Unless the declaration otherwise provides, if two or more associations have liens for assessments created at any time on the same real estate, those liens have equal priority.

## ARTICLE XI
## AMENDMENTS

SECTION 1. These By-Laws may be amended by the Board at a regular or special meeting of the Board by a vote of a majority of a quorum of directors present in person subject to the approval of the majority of members.

SECTION 2. In the case of any conflict between the Articles and these By-Laws, the Articles shall control.

## ARTICLE XII
## VOTING RIGHTS

SECTION 1. In accordance with paragraph eleven (11) of the Declaration and in accordance with Article V of the Articles of Incorporation, the voting rights, or method of determining such rights, of the unit owners with respect to matters arising out of ownership of the common elements, which rights must correspond approximately with each unit owner's undivided interest in such common elements.

NUMBER OF VOTES. The number of votes to be cast by each member shall be determined by ownership in a particular Unit as follows:

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| 100 | .5 |
| 101 | 1 |
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| 279 | 2 |
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When more than (1) person or entity holds an ownership interest in any Unit, all personal and/or entities shall be members; however, the number of votes for such Unit shall not exceed the number allocated for such Unit as described as above.

## ARTICLE XIII
## MISCELLANEOUS

The fiscal year of the Corporation shall begin on the first day of January and end on the 31st day of December of every year.

## ARTICLE XIV
## DEFINITIONS

As used in these By-Laws, words or phrases shall have the same meaning and definitions as set forth in the Declaration.

RECORD FEE 2.50
STATE OF ALABAMA
BALDWIN COUNTY
I CERTIFY TH[illegible] [illegible]UMENT WAS
FILED AND [illegible] [illegible]TED ON

FEB 18 12 08 PM '92

RECORDED RP 450/741
JUDGE OF PROBATE

STATE OF ALABAMA )
) SS:
COUNTY OF BALDWIN )

COMES NOW George Daly Vice President of Sugar Beach Condominium Association, Inc., and Doug Taylor Secretary of Sugar Beach Condominium Association, Inc., and having first been duly sworn upon their oath allege and say:

That the above and foregoing Amended By-Laws of Sugar Beach Condominium Association, Inc. were duly passed by the Board of Directors of said association and were there after submitted to the annual meeting of the unit owners at a legally called meeting on the 26th day of October 1991.

That said By-laws are a part of the Declaration of Condominium of Sugar Beach Condominium association, Inc., and designated therein as " Exhibit C:.

Further Affiant Saith Not.

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MISC 70 PAGE 1040

George Daly
VICE PRESIDENT

x Doug Taylor
SECRETARY

STATE OF ALABAMA
COUNTY OF BALDWIN

I, the undersigned Notary Public in and for said State and County, hereby certify that George Daly and Doug Taylor, whose names are signed to the forgoing instrument, as Officers of said not for profit Corporation, and who are known to me, acknowledged before me on this day that, being informed of the contents of said instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and on this the 10th day of February 1992

Catherine R. Ell[illegible]
NOTARY PUBLIC

This Instrument Prepared By:

George F. Daly
23044 Perdido Beach Blvd
Orange Beach, Al 36561