

FILED in MONTGOMERY County, on  
Apr 09 2002 @ 09:54:43 AM  
by: Kaye G. Norris

BOOK 438 PAGE 205

STATE OF NORTH CAROLINA

BADIN SHORES RESORT  
AMENDED AND RE-STATED  
RESTRICTIVE COVENANTS  
AND BY-LAWS

MONTGOMERY COUNTY

\$98.00pd.

1 Clubhouse Dr., New London

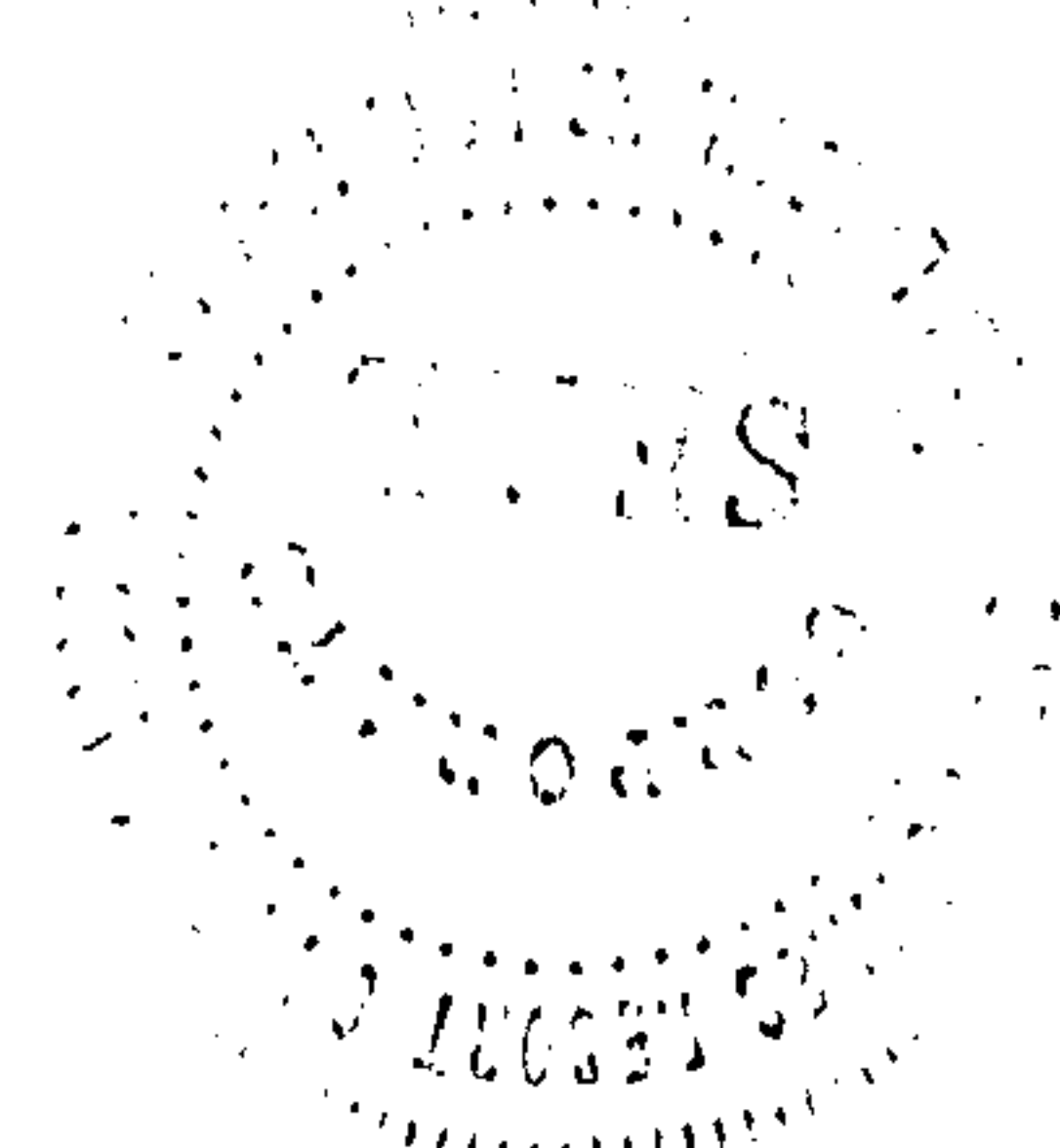
The <sup>✓</sup>Badin Shores Resort Owners' Association, Inc., acting pursuant to the <sup>28127</sup> Declaration of Covenants and Restrictions for Badin Shores Resort, Inc. as recorded in Book 225, Page 377, *et seq.* and the By-Laws of Badin Shores Resort Owners' Association, Inc. as recorded at Book 225, Page 394, *et seq.*, of the Register of Deeds of Montgomery County, hereby files amended and re-stated Restrictive Covenants and By-Laws which were approved and enacted by a duly noticed meeting of the Badin Shores Resort Owners' Association, Inc. held March 10, 2001 at Badin Shores Resort. Attached to this statement and incorporated by reference as Attachment A are the minutes of the annual meeting, and appended as Attachment B are the election results from that meeting.

This 30<sup>th</sup> day of March, 2002.

BADIN SHORES RESORT  
OWNERS' ASSOCIATION, INC.

By: *Fredrick E. Fisher*  
President

Attest: *Jim Byson*  
Secretary



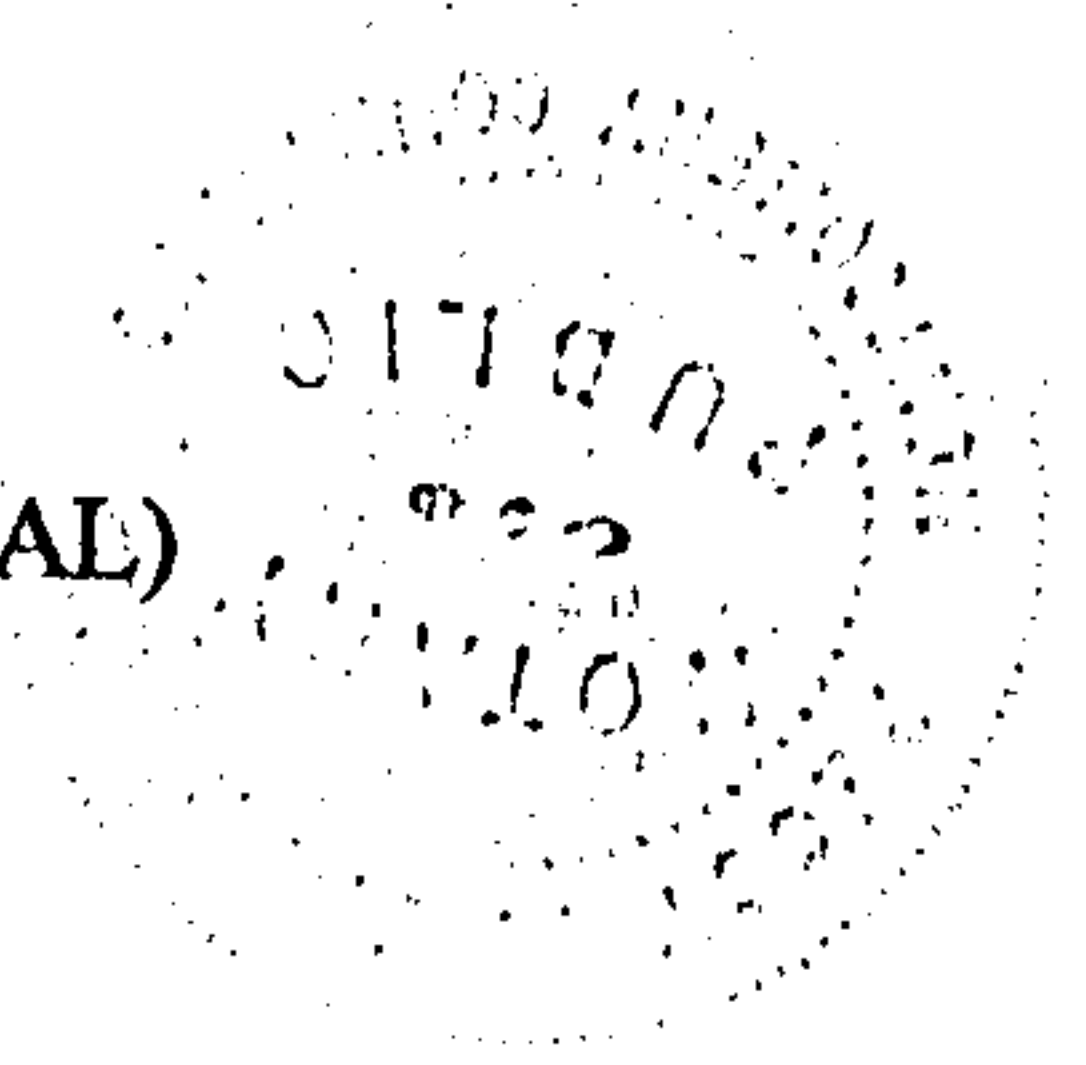
STATE OF NORTH CAROLINA  
Montgomery COUNTY

I, *Peggy B. Gilliland*, a notary public, do hereby certify that *Jim Byson* personally came before me this day and acknowledged that he is the Secretary of Badin Shores Resort Owners Association, Inc., and that, by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him self as its Secretary.

Witness my hand and official seal this the 30<sup>th</sup> day of March, 2002.

*Peggy B. Gilliland* (SEAL)  
Notary Public

My Commission Expires: 8-05-02



9537186

## BADIN SHORES RESORT OWNERS' ASSOCIATION, INC.

ANNUAL MEETING  
MARCH 10, 2001  
10:00 AM @ the BSR CLUBHOUSE

Board Members Present: Fred Fisher, Darrell Cole, Jim Bryson, Ray Hutchinson, James McGee, Lige Lawrence, and Teresa Richardson. Alternates present: Betty Shackelford and Clay Eudy

Fred Fisher, President of the Board of Directors welcomed everyone to the Annual Meeting.

Reverend James Gibson, Lot 835 opened the Meeting with a prayer.

Fred Fisher asked Jerry Shackelford, Chairman of the Elections Committee, to introduce the candidates running for the Board: Jerry Shackelford introduced the five candidates in the following order: Darrell Cole, Zanda Couch, Fred Fisher, James McGee, and Michael Wall. Each candidate was given the opportunity to speak. The membership was given the opportunity to question each candidate.

Fred Fisher then asked if there were any nominations from the floor. There were none.

Fred Fisher presented the following five issues one at a time allowing comments on each issue. Each Owner was given a five-minute time limit on each issue in order for everyone to have an opportunity to speak. Jim Bryson was asked to keep time for the speakers.

After each of the five issues was addressed, Fred Fisher asked if there was any other business that anyone wished to discuss. There was no other business.

Teresa Richardson then presented a brief history of how Badin Shores came to be, the past, the recent improvements in the Resort and how the RV Resort Zoning and building changes are improving the Resort. Teresa then presented the things that are currently happening and the plans that are in the not too distant future.

Fred Fisher then asked that all ballots be marked. Evelyn Smith and Jerry Shackelford collected the ballots. Jim Bryson, Board Representative to the Elections Committee, recognized the tellers that would count the ballots. Fred Fisher then stated that the polls were closed.

The meeting was adjourned at 11:30 AM.

Coffee, hot chocolate, and doughnuts were served.

Respectfully submitted,

  
Lige Lawrence

## BADIN SHORES RESORT OWNERS' ASSOCIATION, INC.

ELECTIONS RESULTS  
 MEETING  
 MARCH 10, 2001  
 2:00 PM @ the BSR CLUBHOUSE

Board Members Present: Fred Fisher, Darrell Cole, Jim Bryson, Ray Hutchinson, James McGee, Lige Lawrence, and Teresa Richardson. Alternates present: Betty Shackelford and Clay Eudy

Fred Fisher, President of the Board of Directors welcomed everyone to Elections Results Meeting.

Elections Results: Jim Bryson presented the results for the Board of Directors as follows:

Fred Fisher	357 votes
Darrell Cole	347 votes
James McGee	286 votes
Mike Wall	125 votes
Zanda Couch	105 votes
Amy Goins	1 vote
Jim Bryson	1 vote
J R Ewing	1 vote

Jim Bryson then recognized the Board of Directors as follows:

President	Fred Fisher
Vice-President	Darrell Cole
Secretary	Jim Bryson
Treasurer	Teresa Richardson
Recording Secretary	Lige Lawrence
At Large	James McGee
At large	Ray Hutchinson

Jim Bryson then stated the Issues results as follows:

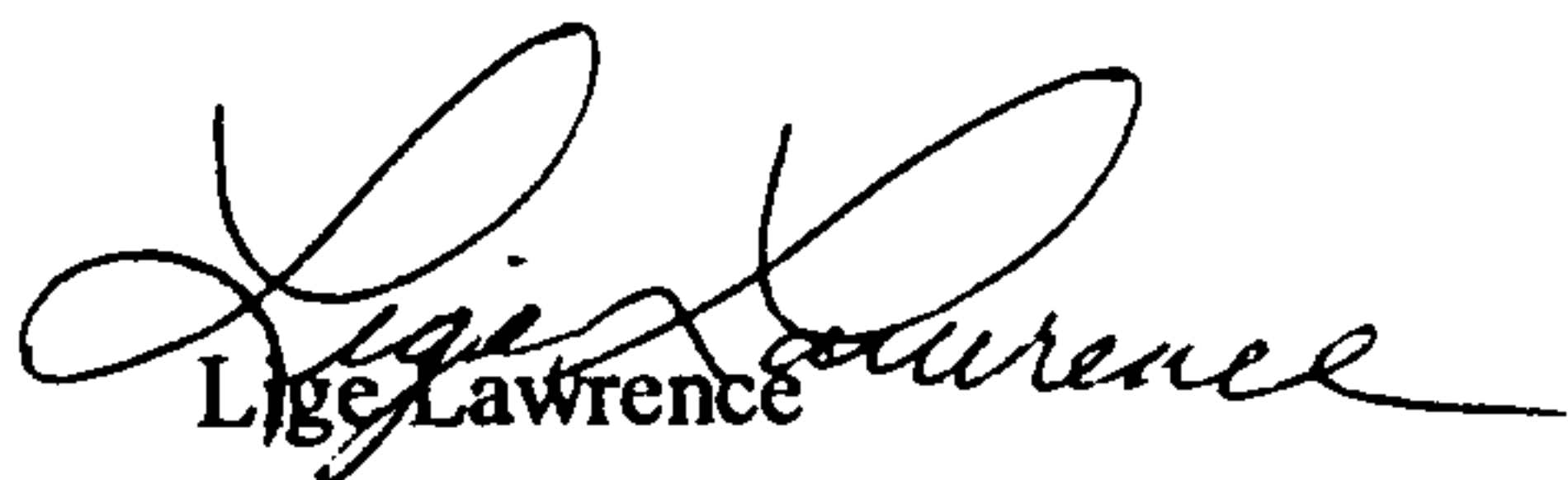
Total # of lots	1044
Total # of voters with dues not current	203
Total # of eligible voters	841
Total # of proxies/ballots returned	437
Proxies/ballots mailed (not returned)	404

	Yes	No
Covenants	318	95
By-laws	332	93
Plus signed proxies	12	

Teresa Richardson motioned to accept the Election Results upon confirmation from Attorney Mitchell that the required number of votes were cast to make this a valid election. Lige Lawrence seconded. Motion carried 7-0.

Adjourn: James McGee motioned to adjourn. Darrell Cole seconded. Motion carried 7-0.

Respectfully submitted,

  
Lige Lawrence

**DECLARATION OF COVENANTS AND RESTRICTIONS FOR  
BADIN SHORES RESORT OWNERS' ASSOCIATION, INC.**

This Declaration made for and by the Badin Shores Resort Owners' Association, Inc., a North Carolina Corporation, hereinafter, collectively called the "Association", to apply to and for the benefit of Badin Shores Resort."

**WITNESSETH:**

WHEREAS, "Association" is a duly established non-profit North Carolina Corporation established for the management of Badin Shores Resort Subdivision, which is located on certain property situated on Badin Lake, Montgomery County, North Carolina, more fully described by documents, maps, and other instruments, all as duly filed in the office of the Register of Deeds of Montgomery County, North Carolina.

WHEREAS, the "Association" seeks to restrict said property to the use as a recreational vehicle resort;

WHEREAS, the "Association" desires to provide for the preservation of certain values and amenities for said property, and to this end, desires to subject the real property described in Exhibit "A", together with all additions (hereafter referred to as the "Property") as may be made to the covenants, restrictions, easements, affirmative obligations, charges and liens, hereinafter set forth and all of which is hereby declared to be for the benefit of said property and each and every Owner of any and all parts thereof. (A copy of Exhibit "A" is attached hereto and made a part hereof.);

WHEREAS, the "Association" deems it desirable for the efficient preservation of the values and amenities for said property, to create an "Association" to which should be delineated and assigned the power and authority of maintaining and administering the Common Properties and administering and enforcing the covenants and restrictions governing the same and collecting and disbursing all assessments, and charges necessary for such maintenance, administration and enforcement, as hereinafter created;

WHEREAS, the "Association" was incorporated under the laws of the state of North Carolina as a non-profit corporation for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth;

NOW THEREFORE, the Association covenants and agrees with its members and their heirs, successors, and assigns as is more fully set forth in this Declaration, impressing these Covenants and Restrictions upon all the real property known as Badin Shores.

All provisions of this Declaration shall be construed as covenants running with the land and every part thereof and interest therein, including but not limited to, every lot and appurtenances thereto, Owners and claimant of the property or any part thereof or any interest therein, and his heirs, executors, administrators, successors, and assigns, shall be bound by all of the provisions of said Declaration.

I

DEFINITIONS

As used in this Declaration, the following definitions shall prevail:

**1.1 Declaration** shall mean these restrictive covenants relative to the property herein described in Exhibit "A" and recorded in the office of the Clerk of Court for Montgomery County, North Carolina.

**1.2 Association** shall mean Badin Shores Resort Owners' Association, Inc., a non-profit corporation responsible for the operation of the property for the benefit of the members of the Association. The Association shall have all powers and duties granted to or imposed upon it by this Declaration and the Bylaws of the Association.

**1.3 Owner of Lot or Owners of Lot**, hereinafter referred to as Owner, shall mean and refer to the owner of record whether one or more persons, firms, associations, partnerships, corporations or other legal entities, in the fee simple title to any lot as defined in Paragraph 1.9 but the term "Owner" shall not mean and refer to any lessee or tenant of the owner of record.

**1.4 Common Property or Common Properties** are all those areas of land that are located within the area known as Badin Shores Resort that are not deeded to a private entity. The "Common Property" includes, but is not limited to the following: the water distribution system, the sewage collection system, the roads, pathways, bath houses, designated recreation facilities in the recreation areas, parking areas, drainage facilities, swimming pool, and any other areas which are for the common benefit and enjoyment of the Owner and which are conveyed or leased as "Common Property."

**1.5 Common Assets** are all of those articles of value belonging to Badin Shores Resort that are for the common benefit and enjoyment of the Owners. The "Common Assets" includes but are not limited to the following: the office equipment, maintenance equipment, furniture and titled vehicles found within the properties of Badin Shores Resort.

**1.6 Common Expenses** shall mean the expenses for which the Owner is liable to the Association.

**1.7 Common Surplus** shall mean the excess of all receipts of the Association, including, but not limited to assets, rents, profits, and revenues on account of the Common Properties, over the amount of Common Expenses.

**1.8 Assessment** shall mean a share of the funds required for payment of the Common Expenses which from time to time is assessed by the Association against the Owner.

**1.9 Lot or Lots** shall mean and refer to any plot of land as shown on Exhibit "A", with the exception of Common Property, A-lots, and property owned by the Association which is subject to individual ownership.

**1.10 A-lot (s)** are those parcels of land owned by private entity that are not stand-alone lots either by virtue of being platted or by their size and shape, or by the language of the deeds that created and conveyed them.

- 1.11 Family** shall consist of owner(s), their children, their parents, their grandparents and their grandchildren.
- 1.12 Guest(s)** are invited person(s) who accompany the Owner to the Resort.
- 1.13 Occupant(s)** shall mean the person(s) other than the Owner in possession of the Lot.
- 1.14 Lessee** shall refer to a person(s) designated by the Owner, registered with the Association and party to a lease agreement provided by and to the Association.
- 1.15 Recreational vehicle** shall mean those vehicles described in the Montgomery County RV Resort Ordinance recorded in Book 440 and the Badin Shores RV Resort Building Regulations.
- 1.16 Properties Retained by the Association** shall mean properties shown and described as Retained Properties on Exhibit "A".
- 1.17 By-laws** shall mean the Bylaws of Badin Shores Resort, Owner's Association, Inc., a copy of which is attached to this Declaration as Exhibit "B" and thereby made a part hereof.

## II

### EASEMENT

The Association reserves for itself, its assigns, agents, employees, business and other invitees, guests or other under the supervision, direction and control of the Association, or its assigns, in perpetuity, a non-exclusive easement over, through and across the Property, which may not be amended or revoked, and which shall include the following:

- (a) **Utilities.** Easements are reserved as may be required for the entrance upon, construction, maintenance and operation of utility service to adequately serve the Property, including, but not limited to, the installation of mains (water and sewage systems), electrical power lines and such other equipment as may be required throughout the Property. It is expressly agreed that the Association or the utility company making the entry shall restore the Property as near as practical to the condition that existed prior to commencement of construction of such utility. In addition, easements are reserved for such further utility easements over and across the Property as may be required from time to time to service the Property or any other property owned by the Association.
- (b) **Encroachments.** In the event that any lot shall encroach upon any of the Common Property or upon any other lot for any reason other than the intentional or negligent act of the Owner, or in the event any Common Property shall encroach upon any Lot, then an easement shall exist to the extent of that encroachment for so long as the encroachment shall exist.
- (c) **Pedestrian and Vehicular Traffic.** An easement shall exist for pedestrian and vehicular traffic over, through and across sidewalks, paths, walks, lanes and other portions of the Common Property as may be from time to time intended and designated for such purpose. Nothing herein shall be construed to give or create in any person the right to park upon any portion of the Property except to the extent that space may be specifically designated and assigned for parking purposes.

- (d) **Drainage.** Easements are reserved as may be required for the proper drainage throughout the Property.
- (e) **Boat Ramp and Launch Facility.** Easements are reserved as may be required by governing agencies, so that any and all users of the boat ramp and launch facility may have ingress, egress, and regress to the boat ramp and launch facility.

**III**

**INTEREST IN COMMON PROPERTY**

Owner shall own an undivided interest in the Common Property. The fee title to each Lot shall include both the Lot and the undivided interest in the Common Property and Common Surplus.

Owner is entitled to the exclusive possession of the Lot subject to the provision of this Declaration. Such Owner shall be entitled to use the Common Property in accordance with the purpose for which intended, but such use may not hinder or encroach upon the lawful rights of another Owner. Each Owner shall also hold membership in the Association and an interest in the funds and assets held by the Association. Membership of the Owner in the Association is acquired pursuant to the Articles of Incorporation of the Association and Bylaws of the Association.

**IV**

**COMMON EXPENSES AND COMMON SURPLUS**

The Common Expenses of the Association shall include the expenses for the operation, maintenance, repair or replacement of the Common Property; cost of carrying out the powers and duties of the Association and any other expense designated as Common Expense by the Association. Owner shall be responsible and liable for an equal share of the common expenses, regardless of the value, size or location of the Lot. The Association will maintain at its own expense, any lots deeded to or under the direction and control of the Association; said lots shall not be subject to maintenance fees, assessments and the like until sold. Owner shall be liable for a share of Common Expenses as may from time to time be assessed. Owner owns common Surplus in the same shares, as their ownership interest in the Common Property as set forth above. However, a share of the Common Surplus does not include the right to withdraw or require payment or distribution of same except as otherwise set forth herein.

Payments on the Water/Sewer Buyout shall continue as follows until the Water/Sewer Buyout loan is paid in full:

- Vacant Owners will pay \$18 quarterly.
- Part Time Owners will pay \$45 quarterly.
- Full Time Owners will pay \$75 quarterly.

The following are exceptions to the above payment structure:

Owners who paid advanced payments and were vacant or part time shall not be billed a quarterly payment until July 1, 2005 unless a change in status shall occur. If a status change should occur, the Owner will be billed in the following manner:

Owner changing from vacant to part time will be billed \$27 quarterly.

Owner changing from vacant to full time will be billed \$57 quarterly.

Owner changing from part time to full time will be billed \$30 quarterly.

Owners who paid advanced payments and are full time will be billed \$75 quarterly as of January 1, 2001.

All of the above shall remain in effect until such time the Water/Sewer Buyout loan is repaid.

At the time the Water/Sewer Buyout is paid in full, fees for water/sewer will be billed based on status (vacant, part time, full time). The fee for water/sewer shall include the expenses for water purchases and sewage disposal.

V

**MAINTENANCE, ALTERATION AND IMPROVEMENT**

Responsibility for the maintenance of the Property and restriction and improvement thereof shall be as follows:

**5.1 Common Property.** The maintenance and operation of the Common Property shall be the responsibility of the Association and expenses associated therewith shall be designated as Common Expense. There shall be no change in the shares and rights of Owners in the Common Property.

**5.2** The Owner shall be responsible for the maintenance and upkeep of the Lot. Any alterations or improvements shall be at the sole expense of the Owner. All alterations or improvements shall be in accordance with the Montgomery County RV Resort Ordinance and the Badin Shores RV Resort Building Regulations.

**5.3 Contracts.** The Board of Directors, or its assigns, may enter into a contract with any firm, person or corporation for the maintenance and operation of the property provided these are approved by the Board of Directors and such vote shall be recorded in the minutes of a meeting. Non budgeted/non emergency contracts shall be limited to a maximum of 5% of the total annual budget.

VI

**ASSESSMENTS**

**6.1** The Association, through its Board of Directors, shall have the power to fix and assess a sum or sums necessary and adequate to provide for the Common Expenses of the Property as specifically provided for in this Declaration and the Bylaws attached.

**6.2** Assessment shall commence when the purchaser takes possession of the Lot or upon the closing of the sale, whichever is first. The Common Expenses shall be assessed against the Owner provided for in Paragraph IV of this Declaration.

**6.3** Assessments and installments are due upon receipt. Dues that are unpaid at the beginning of the next quarter shall bear interest on the unpaid balance until paid at the highest rate provided by law.

**6.4** The Association shall have a lien on each Lot for any unpaid assessments, together with interest thereon, against the Owner of such Lot, provided that said lien on a Lot shall be subordinate to the lien of any first mortgage. Reasonable attorney's fees incurred by the Association incident to the collection of assessments or the enforcement of such liens, together with all sums advanced and paid by the Association for taxes and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien shall be payable by the Owner and secured by such lien. The Board of Directors, or its assigns, may take such action as deemed necessary to collect assessments by personal action, or by enforcing and foreclosing said liens, and may settle and compromise the same, if in the best interest of the Association. In case of such foreclosure, Owner shall be required to pay reasonable rental for the Lot and the Association shall be entitled to the appointment of a receiver to collect same from the Owner.

**6.5** The Association shall keep, or cause to be kept, a book with a detailed account, in chronological order, of the receipts and expenditures affecting the Property and its operation, administration, and preservation, and specifying the maintenance and repair expenses of the Common Property and any other expenses incurred. Both the book and the vouchers accrediting the entries made thereupon shall be available for examination by the Owner upon seventy-two (72) hours notice in writing. The examination shall be conducted at the Association office by appointment at a mutually designated time and date. A Board Member in addition to the Treasurer of the Association shall be present during said examination.

## **VII**

### **RENTAL OF LOTS**

Rental of lots shall be regulated as follows:

- (a)** All leases must be registered with the Association office prior to occupancy of the premises.
- (b)** A fee, as set by the Board of Directors, shall be assessed to record lease agreement to defray administrative cost.
- (c)** The Association will provide a rental/lease agreement form for lessor and lessee whereby all interested parties shall agree to abide by all Covenants, By-laws and Rules and Regulations of the Association in accordance with all-applicable Federal, State, and Local laws or ordinances.
- (d)** Lease shall not exceed a period of twelve months from time of onset and may be renewed provided that all previous provisions of this section have been followed.

- (e) During the period of lease the Owner shall be entitled to enter the Park for purposes of attending meetings, voting, to ensure proper maintenance of the property, and for any other purpose for the good of the Association. If, however, the Owner owns an additional lot or lots that are not leased, all normal privileges are applicable.
- (f) If the Lessee fails to honor the provisions of the lease agreement which encompasses the Covenants, By-laws, and applicable Federal, State, and Local laws and ordinances, and the Rules and Regulations of the Association, the Board of Directors, or its assigns, shall utilize legal recourse to effect eviction of the Lessee.

## VIII

### USE AND OCCUPANCY

**8.1** It is the specific intent of this Declaration to maintain and operate a luxury resort in accordance with the Montgomery County RV Resort Ordinance and the Badin Shores RV Resort Building Regulations. The Board of Directors, or its assigns, shall have the right to disapprove any recreational vehicle to be placed on any Lot or any plans or specifications for any improvement proposed. Prior to commencement of construction of any improvement on a Lot, a building permit must be obtained from Badin Shores Resort Owners' Association, or its assigns, Montgomery County Zoning Department, and Montgomery County Inspections Department. The Board of Directors, or its assigns, shall have the right to inspect the placement of all recreational vehicles on the Lot as well as to inspect all construction of any improvements placed on the Lot to insure that its placement or any other structure is in accordance with the approved plans, specifications, details and in general conformity as to size. No recreational vehicle, or other improvements shall be placed upon a lot unless it conforms strictly to these requirements and any approved plans, specifications and details.

**8.2** No animals, livestock, or fowl of any kind shall be brought upon or kept on any site, except that household pets, limited to dogs, cats and birds may be kept on sites provided they are not raised, bred, or kept for commercial purposes, are maintained under control at all times and are not permitted to create a public health or noise nuisance, and their droppings are removed and disposed of by the Owner. Dogs shall be kept on leashes when not otherwise confined physically within the confines of the Owner's Lot. Pets shall not be permitted to create a public noise nuisance. Violations shall result in Owner being required to remove pet from premises. Pets shall not be allowed in amenity areas.

**8.3** No signs, other than "for sale" signs issued at no charge by Badin Shores Resort Owners' Association, Inc. or its assigns, shall be displayed on any lot, marine vehicle, or utility vehicle.

**8.4** An easement for the installation and maintenance of utility services and for drainage ditches shall be used by the Board of Directors, or its assigns, for such installation and maintenance, together with the right to trim, cut or remove any structure, trees, or bush necessary for the above purposes. The Owner shall have no cause of action against the Association, Board of Directors, or its assigns, either at law or in equity by reason of any damage caused said Lots in the installation, operation or maintenance of above mentioned utilities, except in case of gross negligence.

**8.5** No nuisance shall be allowed upon the Property nor any use or practice which is the source of annoyance of Owners, guests, or other users of the property, or which interferes with the peaceful possession or proper use of the Property.

**8.6** No commercial activity shall be conducted on or from any Lot unless it is beneficial to the majority of the membership and approved by the Board of Directors. No visual signs or advertisements proclaiming a commercial activity on the Lot shall be permitted.

**8.7** The Board of Directors shall levy and collect a reasonable quarterly assessment, which shall be paid in advance, from Owners sufficient to cover each Owner's proportionate share of the actual cost of operating and maintaining all common use property and facilities providing water, electricity and garbage disposal service, sewage service, general maintenance, and carrying out the duties of the Association. The Board of Directors shall also include in the assessments so made the sum adequate to pay all real property taxes on the Common Property. The collection of these sums shall be provided for in an adequate manner to assure the necessary maintenance.

**8.8** No noxious, dangerous, illegal, unreasonable or disturbing activities shall be carried on at Badin Shores Resort, nor shall anything be done which may be or become a nuisance or annoyance to the neighborhood. Persons committing disturbances or who appear to be intoxicated shall not be permitted to enter Badin Shores Resort, or to remain at Common Areas or facilities. No firearms shall be discharged within the properties except in the lawful protection of human life. The Board of Directors, or its assigns shall determine what constitutes these noxious, etc., activities as discussed in this paragraph and said determination shall be complete and final.

**8.9** No open fires of any kind, including those for burning of rubbish and debris, shall be permitted within Badin Shores Resort except within a metal or pottery cooking, barbecuing or brazing device or within a masonry fireplace, barbecue or fire pit, provided however, that special burning or fire permits may be issued by the Board of Directors, or its assigns. Fires must be attended by an adult at all times and must be thoroughly extinguished by wetting or burying upon completion of their use.

**8.10** No live trees being larger than six (6) inches in diameter shall be removed from any lot without the prior permission of the Board of Directors or its assigns. The Board of Directors or its assigns, however, shall not unreasonably refuse such permission and shall grant such permission as will permit owners reasonable use of Lot.

**8.11** No wrecked, abandoned, discarded or junked vehicle, trailer, watercraft, equipment or material of any kind shall be placed or be permitted to remain on any site.

**8.12** Any motor vehicles which create loud and obnoxious noises shall not be operated in Badin Shores Resort. Vehicles, which are not allowed include but are not limited to: mini bikes, motor bikes, motor scooters, ATVs, and go-carts. Golf carts/utility vehicles shall be permitted to operate within the Property providing it is operated by a person who has a valid driver's license and Owner of the vehicle has registered said vehicle with the Association. It shall be the sole responsibility of Owner to provide liability coverage on all vehicles. The Association shall have no responsibility or liability for any damage to property or personal injury resulting from an uninsured vehicle of any type.

**8.13** Each Owner shall keep the Lot in a clean, healthful, and safe condition and appearance and shall maintain the same in accordance with the rules and regulations determined from time to time by the Board of Directors, or its assigns. If an owner shall fail to maintain the lot in accordance with said rules and regulations, then the Board of Directors or its assigns, after fifteen (15) days written notice, shall have the right to enter the premises and take such actions as may be reasonably necessary to correct the infraction(s) or improper conditions. The cost of corrective action(s) by the Board of Directors, or its assigns, shall become a special assessment against the Owner and the Lot in question and shall be collectible as provided in Section VI of the Declaration of Covenants and Restrictions.

**8.14** Owners agree and covenant for themselves and their guests that the authority granted herein to the Board of Directors, or its assigns, to make, publish, and enforce rules and regulations and to perform other acts and functions shall not be deemed a "right to control" or to otherwise create such a legal relationship as to cause the Association to be vicariously liable for the willful or negligent acts or omissions of such persons. Owners assume, for themselves and for their guests, all risks in the use of common areas and facilities of Badin Shores Resort.

**8.15** No person shall use the Common Property or any part thereof in any manner contrary to or not in accordance with such rules and regulations pertaining thereto as from time to time may be determined by the Association.

**8.16** If any person violates or attempts to violate any of the Covenants or Restrictions of this Declaration, any Owner, the Association, or the Board of Directors, or its assigns, may bring any proceeding at law or at equity against the person violating or attempting to violate any such covenant or restriction and either prevent such Owner from so doing or to recover costs of the suit and reasonable attorney's fees. Any invalidation of any of these Covenants and Restrictions shall in no way affect any other of the provisions hereof which shall remain in full force and effect.

**8.17** Other reasonable rules and regulations governing use and occupancy and which do not alter or are not in opposition of any of the foregoing provisions may be made and amended from time to time by the Association, the Board of Directors or its assigns, in the manner provided by its Articles and By-laws.

## IX

### INSURANCE

**9.1 Liability Insurance.** The Board of Directors of the Association shall obtain public liability and property damage insurance covering all of the Common Property and Association owned properties, and insuring the Association and the Owners as it and their interests appear, and in such amount as the Board of Directors of the Association may determine from time to time. Said insurance shall include, but not limit the same, to water damage, if available, legal liability, hired automobile, non-owned automobile and off-the-premises employee coverage. All liability insurance shall contain cross-liability endorsement to cover liabilities of the Owners as a group to an Owner. Premiums for the payment of such insurance shall be paid by the Association and charged as a Common Expense.

**9-2 Casualty Insurance.** The Association shall obtain fire and extended coverage insurance and vandalism and malicious mischief insurance insuring all of the insurable improvements within the Property, including personal property owned by the Association, in and for the interest of the Association, all Owners and lien

holders, if any, as their interests may appear, in a company acceptable to the standards set by the Board of Directors of the Association and in an amount equal to the maximum insurable replacement value as determined annually by the Board of Directors of the Association. The premium for such coverage and any other expenses in connection therewith shall be paid by the Association and charged as a Common Expense. The company or companies with whom the Association shall place insurance coverage as provided in this Declaration shall be good and responsible companies authorized to do business in the State of North Carolina.

**9.3** All policies purchased by the Association shall be for the benefit of the Association, all Owners and lien holders, if any, as their interest(s) may appear. Any disbursements in excess of cost or repair and restoration shall revert to the Association's general fund. The Board of Directors, or its assigns, shall expedite approval of such repairs and restoration. Such other insurance shall be carried, as the Board of Directors of the Association shall determine from time to time to be desirable. Owner shall be responsible for purchasing additional liability insurance deemed necessary to cover accidents occurring upon the Lot and for the purchasing of insurance for personal property.

**9.4 Reconstruction or Repair after Casualty.** If any part of the property shall be damaged by casualty, whether or not it shall be reconstructed or repaired shall be determined in the following manner. If the damaged improvement is a Common element, the same shall be reconstructed or repaired by the Association subject to the following provisions.

- (a) When the Association shall have the responsibility of reconstruction or repair, prior to the commencement of reconstruction and repair, the Board of Directors, or its assigns, shall obtain at least three (3) reliable and detailed estimates of the cost of repair or rebuilding, if feasible.
- (b) If the proceeds of insurance are not sufficient to defray the estimated cost of reconstruction and repairs by the Association or at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for payment of the cost of reconstruction and repair are insufficient, assessment shall be made against the Owners in sufficient amounts to provide funds for the payment of such cost. Such assessments on account of damage to Common Property shall be in proportion to the Owner's share of the Common Property.

**X**

**COMPLIANCE & DEFAULT**

Owners shall be governed by and shall comply with the terms of this Declaration, the Bylaws and the Rules and Regulations adopted pursuant thereto. Failure of the Owners to comply therewith shall entitle the Board of Directors, or its assigns, to seek relief in the following manner in addition to other remedies provided in this Declaration, the Bylaws and the laws of the State of North Carolina:

- (a) The Association Board of Directors, or its assigns, and appropriate employees are hereby empowered to enforce this Declaration, Bylaws, Rules and Regulations of the Association.

- (b) Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by acts of negligence, or carelessness of same by any family member, guests, invitees, employees, or agents, but only to the extent that such expenses are not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Lot or its appurtenances, or of the Common Property.
- (c) In any proceeding arising because of an alleged failure of an Owner to comply with the terms of this Declaration, By-laws, Rules and Regulations adopted pursuant thereto, and said documents as they may be amended from time to time; and any actions brought by the Association to enforce such documents, the Association shall be entitled to recover from said Owner the costs of the proceedings, including reasonable attorney fees, should the Association prevail. These costs and fees shall be assessed against the lot in question.
- (d) The failure of the Association, its Board of Directors, or its assigns, or any Owner to enforce any Covenant, Restriction of this Declaration, the Bylaws or the Rules and Regulations adopted pursuant hereto shall not constitute a waiver of right to do so thereafter.

## XI

### MISCELLANEOUS

11.1 No Owners may self-exempt from liability for the contribution toward the Common Expenses by waiver of the use and enjoyment of any of the Common Property, or by the abandonment of the Lot.

11.2 All provisions of this Declaration and the Exhibits attached hereto and amendments thereof shall be Covenants running with the land and of every part thereof and interest therein including but not limited to, every Lot and appurtenances thereto and every Owner and claimant of the Property or any part thereof or of any interest therein and his/her heirs, executors, administrators, successors and assigns, shall be bound by all provisions of said Declaration and Exhibits annexed thereto and amendments thereof.

11.3 If any provision of this Declaration or the Exhibits hereto is held invalid, the validity of the remainder of this Declaration and the Exhibits attached and the application of such provision, section, sentence, clause, phrase or work in other circumstances shall not be affected thereby but shall remain in full force and effect.

## XII

### AMENDMENT TO DECLARATION

This Declaration may be amended at any regular or special meeting of the Owners called and convened in accordance with the Bylaws by the affirmative vote of 51% of the total members of the Association provided that 90 days notice to the membership has occurred prior to the date of the vote. All proposed amendments to the Covenants and By-Laws shall be approved by the majority vote of the Board of Directors for submission of the amendment to the membership. Further, if the Board does not approve the submission to the membership, the Association member shall be entitled to call for a vote on the proposed amendment

upon the submission of a petition bearing 25% of valid owners' signatures to the Board of Directors. The Board of Directors shall then be required to submit the proposed amendment to the Association members within 90 days. No amendment may change the configuration or size of any Lot in any material fashion, materially alter or modify the appurtenances to the Lot, or change any proportion or percentage by which the Owners shares the Common Expenses and owns the Common Surplus unless the Owner of record and all Owners of record of liens on it join in the execution of the amendment unless all Owners of record of all other lots approve the amendment.

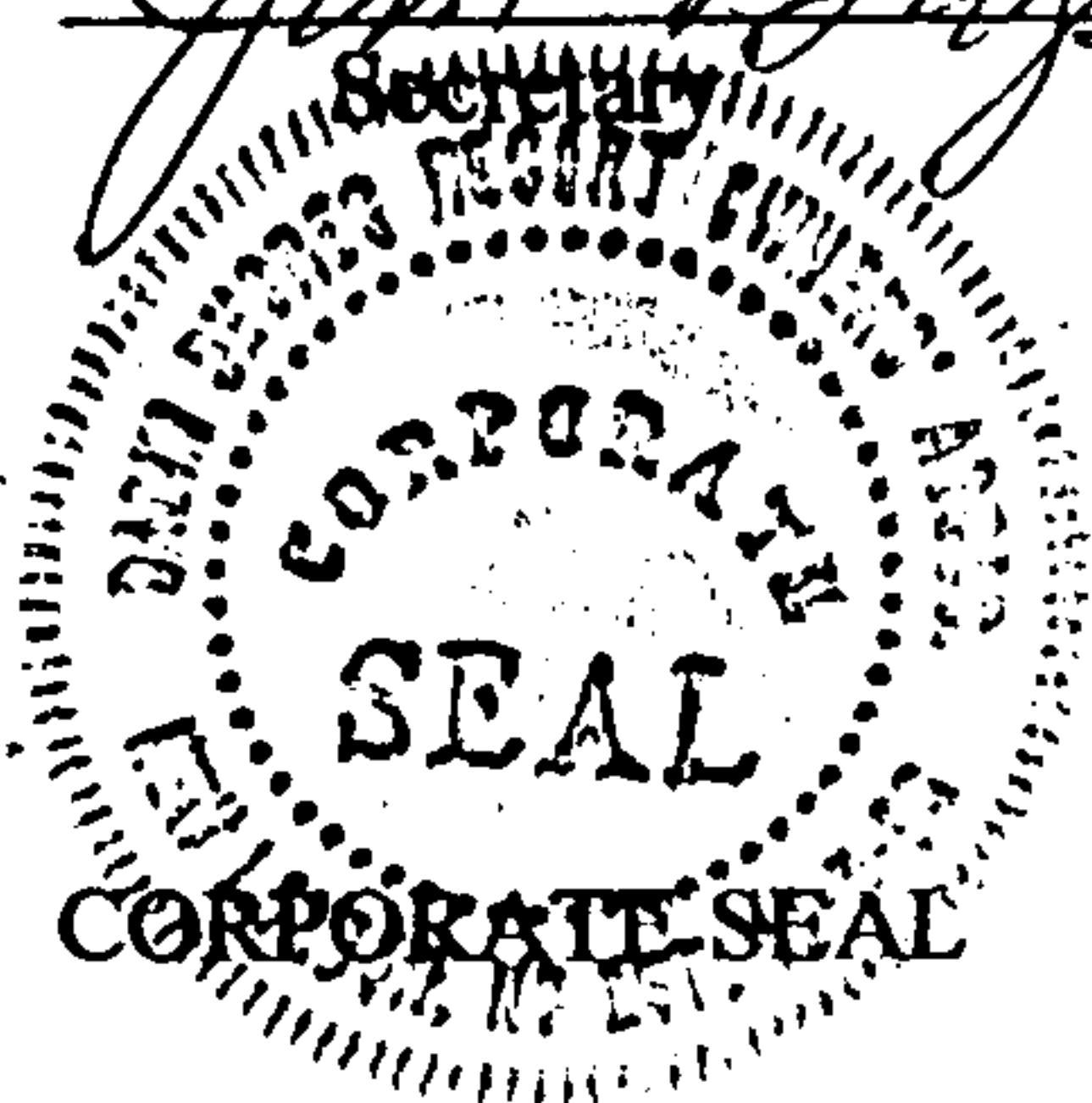
This the 16<sup>th</sup> day of March, 2001

**BADIN SHORES RESORT OWNERS' ASSOCIATION, INC.**

By: *Richard E. John*  
President

ATTEST:

*Jim Bryson*



STATE OF NORTH CAROLINA  
MONTGOMERY COUNTY

I, Teresa Carol Richardson, a notary public of Randolph County, do hereby certify that Jim Bryson personally came before me this day and acknowledged that he is the Secretary of Badin Shores Resort Owners' Association, Inc. and that, by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and official seal this the 16<sup>th</sup> day of March, 2001.

*Teresa Carol Richardson* (Seal)

My Commission Expires: October 28, 2004.



BY-LAWS OF  
BADIN SHORES RESORT OWNERS' ASSOCIATION, INC.

ARTICLE I.  
IDENTITY

The following By-Laws shall govern the operation of Badin Shores Resort Owners' Association, Inc., described and named in the Declaration of Covenants and Restrictions to which these By-Laws are attached; Badin Shores Resort Owners' Association, Inc., being a North Carolina non-profit corporation organized and existing under Chapter 55-A of the North Carolina General Statutes.

Section 1. The office of the Association shall be at the Property, or at such other place as may be subsequently designated by the Board of Directors.

Section 2. The Seal of the Association shall bear the name of the Corporation, the town and state where located, and the year of incorporation.

ARTICLE II.  
MEMBERSHIP AND VOTING PROVISIONS

Section 1. The Association shall not issue stock or certificates.

Section 2. Membership in the Association shall be limited to Owners as identified in the preceding Declaration. Transfer of Lot ownership, either voluntary or by operation of law, shall terminate membership in the Association. If ownership of a lot is vested in more than one person, eligibility to hold office shall be limited to any one of the persons owning said lot during a concurrent period. If more than one person or group of members own a lot, the owners shall collectively designate one individual for the purpose of voting.

Section 3. (a) On all matters relating to the Association upon which a vote of the Owners is conducted, the Owner shall be entitled to cast one (1) vote for each Lot owned as designated in Article II, Section II. If an Owner owns more than one (1) Lot, the Owner shall be entitled to one (1) vote for each Lot owned. The vote of a Lot shall not be divisible. No Owner delinquent in the payment of the Association fee ("Assessment") for a period greater than ninety (90) days shall be allowed to cast its vote until the arrears Assessment is paid in full. (b) A majority of the Owners casting votes shall decide any question unless the By-Laws or the Declaration provides otherwise, in which event the voting percentage required in the By-Laws or the Declaration shall control.

Section 4. Quorum. Unless otherwise provided in these By-Laws, the presence in person or by proxy of 25% of the Owners shall constitute a quorum.

Section 5. Proxies. Any Owner may by written proxy, designate the Board of Directors to cast the Owner's vote. However, if said proxy is given to the Board of Directors, it shall be for the expressed purpose to constitute a quorum and cannot change the outcome of the vote. A proxy may be revocable

at will. No proxy shall be honored until delivered to the Secretary of the Association prior to the meeting in which it is to be used and shall state the date for the particular meeting in which it is in effect.

Section 6. Consents. Any action which may be taken by a vote of the Owners may also be taken by written consent to such action signed by all Owners.

ARTICLE III.  
MEETING OF THE MEMBERSHIP

Section 1 Place. All meetings of the Association membership shall be held at the Property, or at such other place and time as shall be designated by the Board of Directors of the Association and stated in the Notice of Meeting.

Section 2. Notice of Meetings. Written notice of every annual or special meeting of the Association stating the time, date, and place of the meeting shall be given to every Owner not fewer than ten (10) and not more than one hundred (100) days in advance of the meeting. Failure to give proper notice of a meeting of the Owners shall invalidate any action taken in such meeting.

Section 3. Annual Meetings The annual meeting shall be held on the Property on the second Saturday in March or at such other place and time as shall be designated by the Board of Directors, for the electing of directors and transacting other business authorized to be transacted by the members. At the annual meeting, the members shall elect by a plurality vote (highest votes received for the number of vacancies), a Board of Directors and transact such other business as may properly be brought before the meeting. On any ballot, an individual may receive only one (1) vote.

Section 4. Special Meetings Special meetings of the members for any purpose or purposes, unless otherwise prescribed by statute or by the Articles of Incorporation, may be called by the President of the Association at the request, in writing, of a majority of the Board of Directors, or at the request, in writing, of 25% of the Association membership provide the request shall state the purpose or purposes of the proposed meeting.

Section 5. Minutes of Meeting The Secretary of the Association shall prepare and keep, or cause to be kept, accurate minutes of every meeting of the Association. Such minutes shall be made available for examination and copying by any Owner at any reasonable time. An Owner wishing to examine the minutes shall make the request in writing allowing at least seventy-two (72) hours advance notification and shall defray reasonable expenses incurred by such examination. The examination shall be conducted at the Association office by appointment at a mutually designated time and date. A Board Member in addition to a member of office personnel shall be present during said examination.

Section 6. Adjourned Meeting. If any meeting of members cannot be organized because a quorum of voting members is not present, either in person or by proxy, the meeting may be adjourned from time to time until a quorum is present.

Section 7. Conduct of Meeting When in dispute as to proper order or procedures in the conduct of any meeting of the Association, where ever or why ever called, Roberts Rules of Order shall prevail, the latest edition at hand shall control over earlier editions of the same.

ARTICLE IV.  
BOARD OF DIRECTORS

Section 1. Form of Administration The Association shall act by and through its Board of Directors.

Section 2. Powers and Duties: The Board of Directors shall have the power and duties necessary for the administration of the affairs of the Association and may carry out all such acts as are not by law or by the Declaration or by these By-Laws directed to be exercised and done by the Owners. These powers shall specifically include, but shall not be limited to, the following:

- (a) To exercise all powers specifically set forth in the Declaration, in these By Laws, the Articles of Incorporation of this Association and all powers incidental thereto.
- (b) To make assessment, collect said assessments, and use and expend the assessments to carry out the purposes and powers of the Association.
- (c) To employ, dismiss and control the personnel necessary for the maintenance and operation of the Property and of the Common Properties and facilities, including the right and power to employ attorneys, accountants, contractors and other professionals as the need arises.
- (d) Except as specifically provided otherwise herein, to make and amend regulations respecting the operation and use of the Properties and the use and maintenance of the Lots therein.
- (e) To contract for the management of the Association and to designate to such contractor all of the powers and duties of the Association except those which may be required by the Declaration to have approval of the Board of Directors or the membership of the Association.
- (f) To designate one or more committees, which, to the extent provided in the resolution designating such committee, shall have the power of the Board of Directors in the management of the business and affairs of the Association. Such committee shall consist of at least three (3) members of the Association, one of whom shall be a Director. The committee or committees shall have such name or names as may be determined from time to time by the Board of Directors and said committee shall keep regular minutes of their proceedings and report the same to the Board of Directors as required.
- (g) To issue and disburse the proceeds of assessments in the exercise of its powers and duties in accordance with the Declaration and By-Laws of the Association.
- (h) The maintenance, repair, replacement and operation of the Property.
- (i) The reconstruction of improvements after casualty and the further improvement of the Property.
- (j) To enforce by legal means the provisions of the Declaration, the Articles of Incorporation, the By-Laws of the Association, and the rules and regulations for the use of the Property.

- (k) To pay taxes and assessments, which are liens against any part of the Property other than properties that are not deeded to a private entity and the appurtenances thereto, and to assess the same against the Owner subject to such lien.
- (l) To pay all cost of all powers, water, sewer and other utility services rendered to the Property that are not billed to individual Owners.

The foregoing powers shall be exercised by the Board of Directors, its assigns, contractors, or employees subject only to the approval by Owners when such is required.

**Section 3. Qualification** Only an individual who is an Owner, or who together with another person or other persons is an Owner, or who is an officer of a corporation, a general partner of a partnership, an associate of an association, a trustee of a trust, or a managing agent of any other legal entity which is an Owner, or which together with another person or other persons is an Owner and at least eighteen (18) years of age may be elected to serve as a Director of the Association.

**Section 4. Election and Term** The Board of Directors shall be elected and shall serve as follows:

All terms for Directors shall be for two years and all Boards shall consist of seven (7) members elected on a four (4) three (3) rotation cycle. No Board of Directors shall consist entirely of new persons, and no Board shall, in its entirety, stand for election at any one time.

**Section 5. Vacancies** Any vacancy on the Board of Directors shall be filled by the appointment by the majority of the remaining Directors, and the new Directors shall serve for the unexpired term of the predecessor.

**Section 6. Voting** Each Director shall have one vote on all matters acted upon by the Board of Directors. The affirmative vote of the majority of the Directors shall be sufficient for any action unless otherwise specified in the Declaration or these By-Laws.

**Section 7. Quorum** Five Directors shall constitute a quorum.

**Section 8. Consents** Any action, which may be taken by a vote of the Board of Directors, may also be taken by written consent to such action signed by all Directors. All such consent actions shall be entered in the minutes of the next regular constituted meeting of the Board of Directors.

**Section 9. Referendum** Any decision voted by the Association shall be binding upon the Board of Directors and shall supersede any previous inconsistent action or make invalid any subsequent inconsistent action taken by the Board of Directors. No such action by the Owners shall impair the enforceability of any contract duly authorized or entered into by the Board of Directors pursuant to authority granted in the Declaration or By-Laws.

**Section 10. Annual Meeting** A meeting of the Board of Directors shall be held each fiscal year within thirty days preceding the annual meeting of the Association. Any business, which is appropriate for action of the Board of Directors, may be transacted at said meeting.

**Section 11. Regular Meeting** Regular meetings of the Board of Directors shall be held monthly at such time, date, and place as the Board of Directors may determine from time to time. Any business, which is appropriate for action of the Board of Directors, may be transacted at a regular meeting.

**Section 12. Special Meeting** Special meetings of the Board of Directors may be called from time to time by the President of the Association or may be called upon the written request of two of the Directors.

**Section 13. Executive Meeting** Executive Meetings of the Board of Directors shall be held pursuant to a regular constituted meeting of the Board of Directors for the expressed purpose of personnel matters or acquisition of property or services. In order for an executive meeting to occur, a motion shall be made during a regular or special constituted meeting by a majority of the quorum.

**Section 14. Notice of Meeting** Written notice of every regular or special meeting of the Board of Directors stating the time, date, and place of the meeting and, in the case of a special meeting, the business proposed to be transacted shall be given to every Director not fewer than three nor more than ten days in advance of the meeting. Failure to give proper notice of a meeting of the Board of Directors shall not invalidate any action taken at such meeting unless (a) a Director who was present but was not given proper notice objects at such meeting, in which case the matter to which such Director objects shall not be taken up, or (b) a Director who is not present and was not given proper notice objects in writing to the lack of proper notice within thirty (30) days following such meeting, in which case the action to which such Director objects shall be void.

**Section 15. Waiver of Notice** Waiver of notice of a meeting of the Board of Directors shall be deemed the equivalent of proper notice. Any Director may in writing waive notice of any meeting of the Board of Directors either before or after such meeting. Attendance at a meeting by a Director shall be waiver by such Director of notice of the time, date, and place of the meeting unless such Directors specifically object to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting shall also be deemed waiver of notice of all business transacted unless objection to lack of notice is raised before the business of which proper notice was not given is put to a vote.

**Section 16. Minutes of Meetings** Minutes of regular, special, and executive meetings shall be maintained in accordance with all subsequent sections of the Declaration and these By-Laws. However, minutes of executive sessions or the content thereof shall not be divulged by any Director, assigns, or employee of the Association without the unanimous vote of the Board of Directors.

**Section 17. Compensation** The Directors may receive such compensation and reimbursement for expenses incurred in the conduct of their duties as the Association may determine.

**Section 18. Removal of Director** A member of the Board of Directors may be removed at any time with or without cause by the affirmative vote of fifty-one (51%) of the members of the Association. The Board of Directors may also remove a member for serious misconduct in office or conviction of a felony with the affirmative vote of five of the remaining directors. Serious misconduct shall include, but not be limited to, the following:

- (a) Wanton disregard for upholding the provisions of the Declaration and these By-Laws
- (b) Acceptance of any gift, service, or other compensation to influence a vote by a Director at a constituted meeting of the Board of Directors

- (c) Failure to discharge duties as a Director by virtue of irregular attendance at a regularly scheduled meeting.

ARTICLE V.  
OFFICERS

Section 1. Elective Officers The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer, all of whom shall be elected by the Board of Directors. The President, Vice President, and Secretary shall all be members of the Board of Directors. The position of the Treasurer may be filled from within the membership of the Board of Directors or a qualified individual or firm as approved and contracted with by the Board of Directors. No one person shall hold more than one (1) of the aforesaid offices concurrently.

Section 2. Election The officers of the Association designated in Section 1 above shall be elected annually by the Board of Directors at the organizational meeting of each new Board following the meeting of the members.

Section 3. Appointive Officers The Board of Directors may appoint an Assistant Secretary and an Assistant Treasurer and such other appointed positions as the Board deems necessary, and to grant them the duties it deems appropriate.

Section 4. Term The officers of the Association shall hold office until their successors are chosen and qualify in their stead. Any officer elected or appointed by the Board of Directors may be removed from that office at any time, with or without cause, by the Board of Directors; provided, however, that no officer shall be removed except by the affirmative vote for removal of a majority of the whole Board of Directors (e.g. if the Board of Directors is composed of seven (7) persons, then four (4) of the said Directors must vote for removal). If the office of any officer becomes vacant for any reason, the vacancy shall be filled by the Board of Directors. Unless otherwise provided in these By-Laws, the officers shall serve without compensation.

Section 5. The President The President shall preside at all meetings of the Owners and of the Board of Directors. The President shall have general supervision over the affairs of the Association and other officers. The President shall have the responsibility to ensure all decisions by the Board of Directors are carried out. The President shall sign all written contracts and perform all of the duties incident to the office, which shall be delegated from time to time by the Board of Directors.

Section 6. The Vice President The Vice President shall perform all of the duties of the President due to absence or disability and such other duties as may be required from time to time by the Board of Directors.

Section 7. The Secretary The Secretary shall issue notices of all Board of Directors meetings and meetings of the owners; and shall attend and keep the minutes of the same. The Secretary shall have charge of all of the Association's books, records and papers except those kept by the Treasurer. The Secretary shall be the designated Registered Agent of the Association.

Section 8. The Treasurer The Treasurer shall have custody of the Association funds and securities and shall keep full accurate accounts of receipts and disbursements in records belonging to the Association and shall deposit all monies and other valuable effects in the name of and to the credit of the Association in such depositories as may be designated from time to time by the Board of Directors. The Treasurer will disburse the funds of the Association as may be ordered by the Board of Directors in accordance with these By-Laws and the annual budget. The Treasurer shall render to the Board of Directors at the regular monthly meeting of the Board of Directors, or whenever they may require it, an account of all transactions as Treasurer and of the financial condition of the Association. The Treasurer shall collect the assessment and shall promptly report the status of collections and of all delinquencies to the Board of Directors and shall give status reports to potential transferees, on which reports the transferees may rely.

ARTICLE VI.  
FISCAL MANAGEMENT

Section 1. Depositories The funds of the Association shall be deposited in such banks and depositories as may be determined by the Board of Directors from time to time, upon resolutions approved by the Board of Directors, and shall be withdrawn only upon checks and demands for money signed by such officer or officers of the Association as may be designated by the Board of Directors.

Section 2. Fiscal Year The fiscal year of the Association shall begin on the first day of January of each year; provided however, that the Board of Directors is expressly authorized to change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed by the Internal Revenue Code of the United States of America, at such time as the Board of Directors deems it advisable.

Section 3. Determination of Assessments Assessments shall be determined as follows:

- (a) The Board of Directors of the Association shall fix and determine from time to time the sum or sums of money necessary and adequate for the common expenses of the Property. Common expense shall include expense for the operation, maintenance, repair or replacement of the Common Properties, costs of carrying out the power and duties of the Association, all insurance premiums and expenses relating thereto, including fire insurance and extended coverage, and any other expenses designated as common expenses from time to time by the Board of Directors of the Association. Funds for the payments of common expenses shall be assessed against the Owners in the proportions of percentage of sharing common expenses as provided in the Declaration. Said assessment shall be payable as ordered by the Board of Directors.
- (b) Special Assessment, should such be required by the Board of Directors, shall be levied in the same manner as herein before provided for regular assessments, and shall be payable in the manner determined by the Board of Directors. A special assessment shall be used wholly and fully for the intended purpose for which it was assessed.
- (c) When the Board of Directors has determined the amount of any assessment, the Treasurer of the Association shall mail or present to each Owner a statement of a said Owner's assessment. All assessments shall be made payable to the Association and, upon request, the Owner shall be given a receipt for each payment made.

Section 4. Application of Payment and Commissions of Funds All sums collected by the Association from assessments may be commingled in a single fund, or divided into more than one fund, as determined by the Board of Directors. All assessment payments by an Owner shall be applied as to interest, delinquencies, cost and attorney's fees, other charges, expenses or advances, as provided herein and in the Declaration, and general assessments in such manner as the Board of Directors determines at its sole discretion.

Section 5. Annual Audit An audit of accounts of the Association shall be made annually by a Certified Public Accountant, and a copy of the report shall be available for inspection by the members at the office of the Association not later than three (3) months after the end of the year for which the report is made.

ARTICLE VII.  
SUBSTANTIAL ADDITION OR ALTERATIONS

There shall be no substantial additions, alterations, or use of the Common Properties unless the same are authorized by a majority vote of the Board of Directors and ratified by the affirmative vote of the members casting not less than fifty-one (51) percent of the total votes of the members of the Association.

ARTICLE VIII.  
COMPLIANCE AND DEFAULT

Section 1. Violations In the event of a violation (other than the nonpayment of an assessment) by an Owner of any of the provisions of the Declaration or of these By-Laws, the Association, by direction of its Board of Directors, may notify the Owner by written notice of said breach, transmitted by certified or registered mail, and if such violation shall continue for a period of thirty (30) days from the date of the notice, the Association, through its Board of Directors, shall have the right to treat such violation as intentional and inexcusable and material breach of the Declaration or of these By-Laws, and the Association may then, at its option, have the following electives:

- (a) An action at law to recover for its damage on behalf of the Association or on behalf of the other Owners,
- (b) An action in equity to enforce performance on the part of the Owner,
- (c) An action in equity for such equitable relief as may be necessary to undo the circumstances, including injunctive relief. Upon a finding by the court that the violation complained of has occurred, the Owner so violating shall reimburse the Association for reasonable attorney's fees incurred by its bringing such action.
- (d) Any violations which are deemed by the Board of Directors to be hazardous to public health may be corrected immediately as an emergency matter by the Association, and cost thereof shall be charged to the Owner as a specific item which shall be a lien against said Lot with the same force and effect as if the charge were a part of the common expense.

Section 2. Negligence or Carelessness of Owner Etc. All Owners shall be liable for the expense of any maintenance, repair or replacement rendered necessary by acts of negligence or carelessness, or by that of any member of owner's family, guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association, if any. Such liability shall include any increase in insurance rates occasioned by use, misuse, occupancy or abandonment of any Lot or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies or rights of subrogation. The expense for any maintenance, repair or replacement required, as provided in this Section, shall be a charged to said Owner as a specific item which shall be a lien against said Lot with the same force and effect as if the charge were a part of the common expense. Said lien shall be subordinate to the lien of any first mortgage on a given Lot.

Section 3. Costs and Attorney's Fees In any proceeding brought by the Association to enforce the provisions of the Declaration, the By-Laws or any rules and regulations promulgated thereunder arising because of an alleged default by an Owner, the Association shall be entitled to recover the cost of the proceeding and such reasonable attorney's fees as may be determined by the court should the Association prevail.

Section 4. No Waiver of Rights The failure of the Association, or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration and these By-Laws shall not constitute a waiver of the right of the Association or Owner to enforce such right, provision, covenant or conditions of the future.

Section 5. No Election of Remedies All rights, remedies and privileges granted to the Association or Owner pursuant to any terms, provisions, convenience or conditions of the Declaration and By-Laws shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election or remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such other party by the Declaration, the By-Laws, or at law or in equity.

#### ARTICLE IX. ACQUISITION OF UNITS

At any foreclosure sale of a lot, the Board of Directors may, acquire in the name of the Association or its designee, the Lot being foreclosed, provided such Lot is necessary or beneficial to the entire Association. The term "foreclosure" as used in this Article shall mean and include any foreclosure of any lien, including a lien for assessments. The power of the Board of Directors to acquire a Lot at any foreclosure sale shall never be interpreted as any requirement or obligation on the part of the Board of Directors, or of the Association, to do so at any foreclosure sale, the provisions hereof being permissive in nature and for the purpose of setting forth the power in the Board of Directors to do so should the requisite approval of the membership be obtained.

#### ARTICLE X. AMENDMENT TO THE BY-LAWS

These By-Laws may be altered, amended or added to at any duly called meeting of the Owners, provided:

- (a) Ninety (90) day notice to the membership has occurred prior to the date of the vote and said notice shall contain a statement of the proposed amendment.
- (b) The Amendment receives a fifty-one (51) percent vote of the membership.

ARTICLE XI.  
INDEMNIFICATION

The Association shall protect every director and every officer, their heirs, executors and administrators against all loss, cost and expenses reasonably incurred by a director in connection with any action, suit or proceeding to which said director may be made a party by reason of being or having been a director or officer of the Association, except as to matters wherein the director shall be finally adjudged in such action, suit or proceeding to be liable for or guilty of negligence or willful misconduct. The foregoing rights shall be in addition to and not exclusive of all other rights to which such Directors or Officer may be entitled.

ARTICLE XII.  
LIABILITY SURVIVES TERMINATION OR MEMBERS

The termination of membership in the Association shall not relieve or release any such former Owner from any liability for obligations incurred under or in any way connected with the Property during the period of such ownership or impair any rights or remedies which the Association may have against such former Owner arising out or in any way connected with such ownership and the covenants and obligations incident thereto.

ARTICLE XIII.  
LIMITATION OF LIABILITY

Notwithstanding, the duty of the Association to maintain and repair parts of the Property, the Association shall not be liable for injury or damage caused by a latent condition in the Property, nor for injury or damage caused by the elements of or by other Owners or persons.

ARTICLE XIV.  
PARLIAMENTARY RULES

Robert's Rule of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the Declaration or these By-Laws.

ARTICLE XV.  
LIENS

Section 1. Protection of Property All liens against a Lot, other than for permitted mortgages, taxes, or special assessments, or as provided for in Article VIII, Section 2 hereof, shall be satisfied or otherwise

removed within ninety (90) days of the date the lien attaches. All taxes and special assessments upon a Lot shall be paid before becoming delinquent, as provided in the Declaration and these By-Laws, or by law, whichever is sooner.

Section 2. Notice of Lien An Owner shall give notice to the Association of every lien upon a Lot, other than for permitted mortgages, taxes and special assessments, or said Article VIII, Section 2 lien within thirty (30) days after the attaching of the lien.

Section 3. Notice of Suit An Owner shall give notice to the Association of every suit or other proceeding which will or may affect title to Owner's Lot or any other part of the Property, such notice to be given within five (5) days after the Owner received notice thereof.

Section 4. Failure to comply with this Article concerning liens will not affect the validity of any judicial sale.

Section 5. Permitted Mortgage Register At the request of mortgagee, the Association shall forward copies of all notices for unpaid assessments or violations served upon an Owner to said mortgagee.

ARTICLE XVI.  
RULES AND REGULATIONS

Section 1. As to Common Elements The Board of Directors may from time to time adopt or amend previously adopted administrative rules and regulations governing the details of the operation, use, maintenance, management and control of the Common Properties and any facilities or services made available to the Owners, provided all are in accordance with the Declaration and these By-Laws. The Board of Directors shall from time to time post in a conspicuous place on the Property a copy of the rules and regulations adopted from time to time by the Board of Directors.

Section 2. As to Lots The Board of Directors may from time to time adopt or amend previously adopted rules and regulations governing and restricting the use and maintenance of the Lots, provided, however, that copies of such rules and regulations are furnished to each Owner prior to the time the same become effective and, where applicable or desirable, copies thereof shall be posted in a conspicuous place on the Property.

Section 3. Resort Rules and Regulations The Resort rules and regulations shall be deemed in effect until amended by the Board of Directors with respect to amendments wherever contained in these By-Laws and shall apply to and be binding upon all Owners. The Owners shall at all times obey said rules and regulations and shall use their best efforts to see that they are faithfully observed by their families, guests, invitees, servants, lessees and persons over whom they exercise control and supervision. Financial penalties shall be assessed for violations against the Owner as stated in the Park Rules, Regulations, and Information.

Section 4. Building Rules and Regulations All buildings must comply with the Montgomery County RV Resort Ordinance and the Badin Shores Resort Building Regulations.

EXHIBIT "A"

Exhibit "A" consists of all parcels of land and real property owned by Badin Shores Resort Owners' Association, Inc., with the exception of deeded and recorded lots and A-Lots owned by private entities, located with the perimeters of Badin Shores Resort as of record in the Montgomery County Registry on March 10, 2001.

Retained Properties are those properties owned by the "Association" and the properties obtained by the "Association" with the required affirmative vote of the membership on March 10, 2001. These parcels of land are recorded in the Montgomery County Registry recorded as North Point at Plat Cabinet C, Slide 47-A and Slide47-B and the area recorded as Phase 6A at Plat Cabinet C at Slide 60-D.

This the 16<sup>th</sup> day of March , 2001

BADIN SHORES RESORT OWNERS' ASSOCIATION, INC.

By: *Pedrick E. Fitch*  
President

ATTEST:

*Jim Bryson*  
Secretary



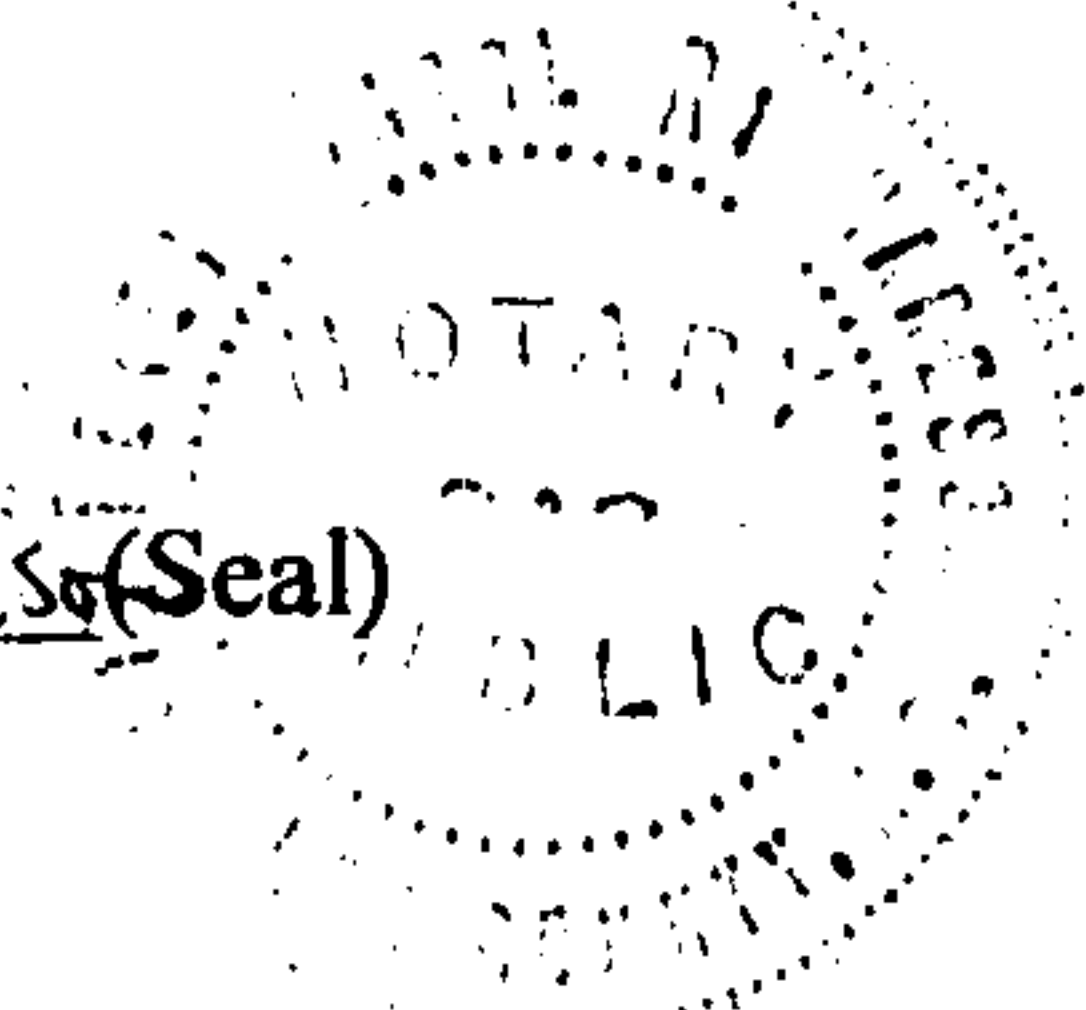
STATE OF NORTH CAROLINA

MONGOMERY COUNTY

I, Teresa Carol Richardson, a notary public of Randolph County, do hereby certify that Jim Bryson personally came before me this day and acknowledged that he is the Secretary of Badin Shores Resort Owners' Association, Inc. and that, by authority duly give and as the act of the Corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and official seal this the 16<sup>th</sup> day of March 2001.

*Teresa Carol Richardson* (Seal)



My Commission Expires: October 28, 2004.

Section 5 Conflict In the event of any conflict between the By-Laws and the Declaration, the latter shall prevail.

APPROVED AND DECLARED AS THE BY-LAWS OF BADIN SHORES RESORT OWNERS' ASSOCIATION, INC., A NON-PROFIT CORPORATION.

This the 16<sup>th</sup> day of March, 2001

BADIN SHORES RESORT OWNERS' ASSOCIATION, INC.

By: *Richard E. Fiol*

President

ATTEST:

*Jim Bryson*  
Secretary



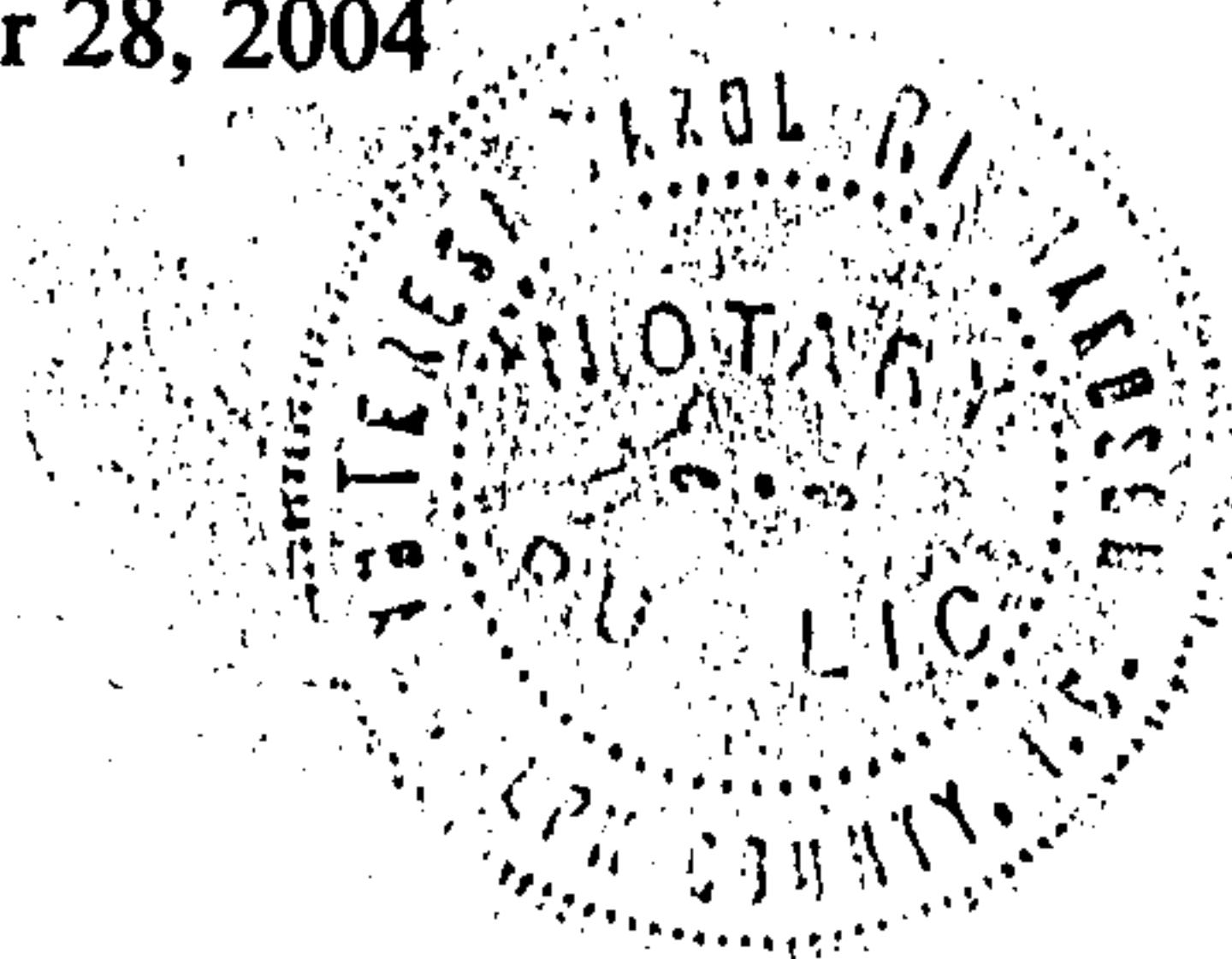
STATE OF NORTH CAROLINA  
MONTGOMERY COUNTY

I, Teresa Carol Richardson, a notary public of Randolph County, do hereby certify that Jim Bryson personally came before me this day and acknowledged that he is the Secretary of Badin Shores Resort Owners' Association, Inc. and that, by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and official seal this the 16<sup>th</sup> day of March, 2001.

*Teresa Carol Richardson* (Seal)

My Commission Expires: October 28, 2004



17

STATE OF NORTH CAROLINA  
COUNTY OF MONTGOMERY

The foregoing certificate(s) of *Peggy B. Hilliland & Teresa Carol Richardson*  
is (are) certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the Office of the Register of Deeds of MONTGOMERY COUNTY, NC in Book *438* Page *205*.

This the *9* day of *April*, 20*03* at *9:54* o'clock *A* M.  
KAYE G. NORRIS, Register of Deeds

*Shirley West*  
Register of Deeds      Assistant      Deputy