

BY-LAWS
for
HIGH BAR HARBOR YACHT CLUB CONDOMINIUM
ASSOCIATION, INC.

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BY-LAWS
OF
HIGH BAR HARBOR YACHT CLUB CONDOMINIUM ASSOCIATION, INC.

ARTICLE 1

NATURE OF BY-LAWS

1.1. Purpose. These By-Laws are intended to govern the administration of HIGH BAR HARBOR YACHT CLUB CONDOMINIUM ASSOCIATION, INC., hereinafter referred to as "Association," a non-profit membership corporation organized under Title 15A of the Revised Statutes of New Jersey, for the purpose of managing, administering, utilizing and maintaining the Common Elements described in the Master Deed for HIGH BAR HARBOR YACHT CLUB CONDOMINIUM, a marina. located in the Township of Long Beach, County of Ocean and State of New Jersey. The Association shall have the power to perform all the duties and obligations of the Association set forth in the Master Deed, these By-Laws, the Rules and Regulations, and the Articles of Incorporation (the "Condominium Documents").

1.2. Definitions. Unless the context clearly indicates otherwise, all definitions set forth in the Master Deed or in Section 3 of the New Jersey Condominium Act, N.J.S.A. 46:8B-1, et seq. ("Condominium Act") are incorporated herein by reference.

1.3. Principal Office. The office of the Association is located at the management office of High Bar Harbor Yacht Club Condominium, 200 Sunset Boulevard, High Bar Harbor, Township of Long Beach, County of Ocean, State of New Jersey 08006, or at such other place as designated by the Board of Trustees of the Association.

ARTICLE 2

MEMBERSHIP AND VOTING RIGHTS

2.1. Membership. Every Unit Owner, including the Grantor, shall be a member of the Association, subject to the provisions of these By-Laws and any Rules and Regulations promulgated by the Board of Trustees, hereinafter referred to as (the "Board"), which may, from time to time as provided in the Master Deed, be amended by the Unit Owners. Membership in the Association shall terminate when any Unit Owner shall cease to be the record owner of a Unit.

2.2. Associate Membership. Every person who is entitled to possession and occupancy of a Unit as a lessee of a Unit Owner or Developer shall, upon the designation by the Unit Owner or Developer and notification to the Association, be an associate member of the Association ("Associate Member") and shall be entitled to all the rights and privileges of membership but shall not be entitled to any vote with respect to Association matters.

(a) In order for a Unit Owner to designate his lessee as an Associate Member entitled to use of the Facilities, the Lease shall be for a minimum of one (1) month.

(b) If a Unit is owned by a corporation or other legal entity or by more than one (1) individual (except in the case of husband and wife), the Unit Owner shall designate one

(1) individual who, with his family, will have the right to use the Facilities as an Associate Member as defined herein. Such designation may not be changed more often than monthly, unless the Association gives its prior written approval.

2.3. **Change of Membership.** Change of membership shall be accomplished by recording in the Office of the Clerk of Ocean County, New Jersey a deed establishing record title to a Unit, and delivering to the Secretary of the Association a copy of such instrument certified by the Clerk of Ocean County. The membership of the new Unit Owner shall then commence and that of the prior Unit Owner shall be thereby terminated.

2.4. **Voting Rights.** Each Unit shall have appurtenant to it one (1) vote to be weighted as provided in Article 6 of the Master Deed. Initially, all votes shall be held by the Grantor; provided, however, that upon conveyance of title of each Unit by Grantor to a Unit Owner, such Unit Owner shall become entitled to vote the vote appurtenant to such Unit, and the number of votes held by Grantor shall be reduced accordingly. The Grantor, however, shall not be entitled to vote any votes appurtenant to Units held as Developer for the purposes of electing members to the Board as provided below in Article 4.

If a Unit is owned by more than one (1) person or party, or by a corporation or partnership, then those persons or parties, or the corporation or partnership shall designate one (1) such person or party to vote for the Unit. If a Unit is owned by a husband and wife, either the husband or wife shall be designated as the person to vote for the Unit. Such designation shall be in writing and shall be submitted to the Association. Grantor's vote shall be cast by such persons as it may from time to time designate. Votes shall be cast in person or by proxy as otherwise provided herein.

2.5 **Proxies.** Proxy ballots shall be permitted with respect to all elections of Trustees. and all amendments to the Articles of Incorporation of the Association, the Master Deed, Rules and Regulations or these By-Laws, or any other matter which is to come before a meeting of the membership of the Association. All proxies shall be in writing, signed by the individual Unit Owner or designated person voting by proxy (or in the case of joint owners by such person designated pursuant to Paragraph 2.4) and duly

delivered to the Secretary of the Association, or such other person as the President may designate, at least one (1) day prior to the commencement of the meeting at which the ballots are to be cast. Proxies may be revoked at any time prior to the opening of the polls for each issue to be voted upon, and no proxy shall be voted on after six (6) months from its date unless said proxy provides for a longer period, not to exceed three (3) years from the date of execution. All proxies shall be substantially in the form prescribed by the Board of Trustees, and if not substantially in such form, may be deemed invalid, which determination shall be made in the sole and absolute discretion of the Board of Trustees.

2.6 **Suspension of Membership and Voting Rights.**

The membership rights and voting privileges of any Unit Owner may be suspended by action of the Board during the period when such Unit Owner's Common Expense, Special, Emergency or Capital Improvement Assessments remain unpaid for a period of thirty (30) days provided, however, written notice of such deficiency is given to the Unit Owner by either hand delivery, certified mail, return receipt requested, or by recognized overnight carrier and such Unit Owner is given five (5) days to satisfy the deficiency. Upon payment of such Assessments, his rights and privileges shall be automatically restored.

Article 3

MEETING OF ASSOCIATION

3.1. Place of Meeting. All meetings of the Unit Owners of the Association shall be held at the principal office of the Association or at such other suitable place as may be designated by the Board.

3.2. First Annual Meeting and Regular Annual Meetings. The first annual meeting of the Unit Owners shall be held on call by the Board. Within thirty (30) days after twenty-five (25%) percent of the Units . have been sold and conveyed, the Board shall call and give not less than twenty (20) days nor more than thirty (30) days notice of said meeting to Unit Owners. At said meeting, two (2) members of the five (5) member Board of Trustees shall be elected by the Unit Owners (other than the Developer) from among Unit Owners and the existing members of the Board shall resign. Thereafter, the Developer shall appoint the remaining three (3) of the five (5) members t^ the Board. The Trustees shall hold office until their respective successors have been elected by the Unit Owners and take office. The Board appointed by the Developer shall act until the election has been completed at said first meeting and the new members take office. The Developer shall gradually turn over control of the Board to the Unit Owners as hereinafter described in Article 4. Regular . annual meetings of the Unit Owners shall be held on the first (1st) Monday of April of each year beginning at 8:00 P.M. At least one (1) meeting shall be held each year.

3.3. Special Meetings. After the first annual meeting, special meetings of the Unit Owners may be called by the President whenever he deems such a meeting advisable, or shall be called by the Secretary when so ordered by the Board, or upon the written request of members to the Secretary representing not less than twenty-five (25%) percent of all votes entitled to be cast at such meetings. Such request shall state the purpose(s) of such meeting and the matters proposed to be acted upon. Unless Unit Owners representing at least fifty (50%) percent of all votes entitled to be cast request such a meeting in writing, no special meeting may be called to consider any matter which is substantially the same as a matter voted upon at any meeting of the Unit Owners held during the preceding twelve (12) months.

3.4. Notice of Meeting. Except as otherwise provided by law, notice of each meeting of Unit Owners, whether annual or special, shall be given not less than ten (10) days nor more than ninety (90) days before the date on which the_ meeting is to be held, to the Unit Owner or designated representative at his last known address, by delivering a written or printed notice thereof to him personally, or by mailing such notice, postage prepaid. Except where expressly required by law, no publication of any notice of meeting of Unit Owners shall be required. Every such notice shall state the time and place of the meeting and shall state briefly the purpose(s) thereof. Notice of any meeting of Unit Owners shall not be required to have been sent to any Unit Owners who shall attend such meeting in person or by proxy, such attendance in person or by proxy shall be deemed to be a waiver of notice.

3.5. Quorum. At any meeting of the Unit Owners, Unit Owners (including the Grantor) representing one-third (1/3) of the total votes

eligible to be cast, present in person or by proxy, shall constitute a quorum for the transaction of business, except where otherwise provided herein.

3.6. Organization. At each meeting of the Association, the President, or, in his absence, the Vice President, or in the absence of both, a Chairperson chosen by a majority vote of those present in person or represented by proxy and entitled to vote thereat, shall act as a Chairperson, and the Secretary, or at his absence, a person whom the Chairperson shall appoint, shall act as Secretary of the meeting.

3.7. Voting. Except as otherwise required by the Articles of Incorporation, the Master Deed, these By-Laws or any law, a quorum being present, a majority of the votes in person or by proxy shall be sufficient on those matters which are to be voted on by all the Unit Owners.

3.8. Judges. If at any meeting of the Unit Owners a vote by closed ballot is requested by twenty-five (25%) percent of those present on any question, the President or Chairperson of such meeting shall appoint two judges from those present to act thereat with respect to such vote. Each judge so appointed shall first subscribe an oath faithfully to execute the duties of a judge at such meeting with strict impartiality and according to the best of his ability. Such judges shall report the number of votes represented at the meeting and entitled to vote on such question, shall conduct voting and accept the ballots, and when the voting is completed, shall ascertain and report the number of votes respectively for and against the question. Reports of judges shall be in writing and subscribed and delivered by them to the Secretary of the meeting. The judges need not be members of the Association, and any officer of the Association may be a judge on any question other than a vote for or against his election to any position with the Association or any other question in which he may be directly interested.

3.9 Order of Business. The order of business at the annual meeting of the Unit Owners or at any special meetings as far as practicable shall be:

- (a) Calling on the roll and certifying the proxies.
- (b) Proof of notice of meeting and waiver of notice.
- (c) Reading, approving and disposing of any unapproved minutes.
- (d) Appointment of judges of election, if appropriate.
- (e) Election of Board of Trustees, if applicable.
- (f) Approval of annual Budget, if applicable.

- (g) Receiving reports of officers.
- (h) Receiving reports of committees.
- (i) Old business.
- (j) New business.
- (k) Adjournment.

3.10. Roberts Rules of Order will cover any phase of the Association meeting not specifically covered by the By-Laws or other Condominium Documents.

BOARD OF TRUSTEES

4.1. Express and Implied Powers and Duties and Delegation Thereof. The property, affairs and business of the Association shall be managed by the Board of Trustees, which shall have all those powers granted to it by the Articles of Incorporation, the Master Deed, these By-Laws and applicable law.

4.2. Number and Qualification. The Association Board of Trustees shall initially consist of five (5) members. Until twenty-five (25%) percent of the total Units are sold and conveyed, the Developer shall appoint all members whose term shall be until the first annual meeting of the Unit Owners.

(a) At the first annual meeting of the Unit Owners as set forth in Paragraph 3.2 above, the initial members of the Board shall resign and the Unit Owners, other than the Grantor with respect to those Units held as Developer, will elect two (2) members to the Board. The Developer will appoint the remaining three (3) members to the Board.

(b) No later than thirty (30) days after the sale and conveyance of seventy-five (75%) percent of the total Units, the Association shall call and give not less than twenty (20) days nor more than thirty (30) days notice of a meeting of the Unit Owners, at which time Unit Owners, other than the Developer with respect to those Units held for current sale in the ordinary course of business, will elect four (4) members to the Board. The Developer will appoint the remaining one (1) member to the Board.

(c) No later than thirty (30) days after the sale and conveyance of one hundred (100%) percent of the Units, the Association shall call and give not less than twenty (20) days nor more than thirty (30) days notice of a meeting of the Unit Owners, at which time the Unit Owners will elect all five (5) members of the Board.

(d) The Grantor will appoint one (1) member of the Board as long as it owns any Units as Developer.

(e) The Association and the Board, when controlled by the Unit Owners other than the Grantor with respect to those Units held as Developer, shall not take any action that would be detrimental to the sale or lease of Units by the Grantor, and shall continue the same level of maintenance, operation and service as existed during Grantor's control of the Association and Board.

4.3. Election and Term of Board of Trustees. Each Unit Owner, other than the Grantor with respect to those Units held as Developer, shall vote in accordance with the provisions of the By-Laws for each position to be filled on the Board of Trustees and the transition from Developer appointed to Unit Owner appointed Trustees shall occur as follows: .

(a) At the first annual meeting, two (2) Trustees will be elected by the Unit Owners, other than the Grantor with respect to those Units held as Developer. The candidate receiving the highest number of votes will be elected to a two (2) year term. The other elected Trustee will be elected to a one (1) year term. The Developer shall appoint the remaining three (3) Trustees.

(b) Within thirty (30) days after the sale and conveyance of seventy-five (75%) percent of the Units, two (2) Trustees out of the three (3) Trusteeships held by the Developer will be elected from among the Unit Owners, other than the Grantor with respect to those Units held as Developer, at a special meeting, one to a term which expires on the date of the annual meeting at least one (1) year from the election date, the other to a term which expires on the date of the annual meeting at least two (2) years from the election date. The candidate receiving the highest number of votes will be elected to the longer term.

(c) Within thirty (30) days after the sale and conveyance of the last Unit held by Grantor as Developer, the fifth elected Trustee shall be elected, at a special meeting, by the Unit Owners, including the Grantor with respect to those Units not held as Developer, for a term which expires on the date of the annual meeting at least one (1) year from the election date and the Trustee appointed by the Developer shall resign.

4.4. At the first annual meeting which occurs at least one (1) year following the election as provided in Paragraph 4.3 (c), an election shall be held to elect Trustees who shall replace the Trustees succeeding the Developer appointed Trustees. At such first regular election, the Unit Owners shall elect five (5) members to the Board of Trustees. The three (3) nominees receiving the highest numbers of votes shall serve as Trustees for terms of two (2) years each and the two (2) nominees receiving the fourth and fifth highest number of votes shall serve as Trustees for terms of one (1) year each. Upon the expiration of the initial term of each Trustee elected at the first regular election, his successor shall be elected to serve for a term of two years, provided that each Trustee shall continue to hold his office until his successor is elected and takes office.

If at any meeting for election to the Board, more than twice the number of candidates to be elected at such meeting are nominated, then and in such event, there shall be two (2) elections for Trusteeship. At the end of the first election the field of nominees shall be reduced so that there are no more than twice as many candidates running as there are positions to be filled. The lowest vote getters in the first election shall be eliminated. The second election shall be held, and on the second election the top vote getters will be elected. If there are no more than twice the number of nominees for the number of positions to be filled, then there shall be one election, with the top vote getters being elected to membership on the Board.

4.5. Removal of Trustees from the Board. At any duly held regular or special meeting of the Unit Owners, any one or more of the Trustees may be removed

with or without cause by two-thirds (2/3) of the Unit Owners present and voting, and a successor shall then be elected to fill the vacancy thus created. This provision shall not apply to any of the Trustees appointed by the Developer. Any Trustee whose removal has been proposed shall be given an opportunity to be heard at the meeting. Any Trustee elected by Unit Owners, who is removed, must be replaced by a Trustee elected by Unit Owners and not a Trustee appointed by Developer.

4.6. Vacancies. Vacancies in the Board caused by any reason, other than the removal of a Trustee by a vote as provided above, shall be filled by a vote of a majority of the remaining Trustees at a special meeting of the Board held for that purpose after the occurrence of such vacancy, even though the Trustees present at such meeting may constitute less than a quorum. Each person so elected shall be a Trustee for the remainder of the preceding Trustee's term and until his successor shall be elected. Notwithstanding any provision to the contrary, the Grantor shall appoint a new Trustee to any vacancy, caused by any reason, to an appointed Trusteeship, and the remaining elected Trustees shall elect a new Trustee to any vacancy, caused by any reason, to a Trustee elected by the Unit Owners.

4.7. Meeting of the Board Notice: Waiver of Notice. A meeting of the Board shall be held within two (2) weeks following the first annual meeting of the Unit Owners at such time and place as shall be fixed by the Unit Owners at the first annual meeting and notice shall be given to all such Trustees prior to such meeting. Thereafter, regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Board, but at least four (4) meetings shall be held each year, the first of which shall be held not later than two (2) weeks after the annual meeting of the Unit Owners. Notice of the regular or adjourned meetings of the Board shall be given to each Trustee by telephone or mail at least three (3) business days prior to the day of the meeting. Special meetings of the Board may be called by the President on three (3) business days' notice given to each Trustee by telephone or mail, which notice shall state the time, place and purpose(s) of the meeting. Any Trustee may, at any time, waive notice of any meeting of the Board in writing and such waiver shall be deemed equivalent to the giving of notice. Actual attendance by a Trustee at any meeting of the Board shall constitute a waiver of notice by him of the time and place thereof. If all the Trustees are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting. At the discretion of the Board of Trustees, meetings of the Board of Trustees or portions thereof, may be open to members of the Association for observation or participation in such manner and to the extent the Board of Trustees deems appropriate.

4.8. Quorum and Adjourned Meetings. At the meetings of the Board, a majority

of the . Trustees shall constitute a quorum for the transaction of business, and the votes of a majority of the Trustees present and voting at a meeting at which a quorum is present shall constitute a valid decision. If at any meeting of the Board there shall be less than a quorum present, the meeting shall be adjourned to a new date. If at a second meeting there shall be less than a quorum present, the second meeting shall also be adjourned to a new date. If at a third meeting there shall be less than a quorum present, those present shall conduct such meeting provided there are two (2) members present. At any such adjourned meeting, any business may be transacted which was to have been transacted at the original meeting.

4.9. Joinder in Meetings by Approval of Minutes. The transaction of any business at any meeting of the Board, however called and notice of wherever held, shall be valid as though a meeting was duly held after regular call and notice, and a quorum is present; if either before or after the meeting all the Trustees sign a written waiver of notice, or a consent to the holding of the meeting, or an approval of the minutes thereof or of the resolution or act adopted at such meeting. All such waivers, consents or approvals shall be in writing and filed with the Secretary and made a part of the minutes of the meeting even though filed subsequent thereto.

4.10. Non-Waiver. All the rights, duties and privileges of the Board shall be deemed to be continuing and shall not be exhausted by any single act or series of acts. To the same extent, the failure to use or employ any remedy or right hereunder or hereafter granted shall not preclude its exercise in the future nor shall any custom bind the Board.

ARTICLE 5

POWERS AND DUTIES OF BOARD OF TRUSTEES

5.1 General Powers and Privileges. The Board shall have those powers which include, but are not necessarily limited to, the following, herein granted together with those set forth in the Master Deed or granted by statute:

(a) To employ, by contract or otherwise, a manager, dock master, managing agent and/or an independent contractor, to oversee, supervise and carry out the responsibilities of the Board. Said manager or independent contractor shall be compensated upon such terms as the Board deems necessary and proper;

(b) To employ professional services and to obtain advice from and compensate persons, firms or corporations including, but not limited to, marina consultants, recreation experts, architects, planners, engineers, lawyers and accountants;

(c) To employ or contract for water and sewer, electricity and gas or other forms of utilities, telephone, television cable, painting, building, repairing, renovating, remodeling;

(d) To employ all managerial supervisory and administrative personnel necessary or to enter into managerial contracts for the efficient discharge of the duties of the Board hereunder; and to compensate such personnel as the Board, in its discretion, deems necessary and proper;

(e) To employ all personnel necessary for the operation of the Condominium and compensate such personnel as the Board, in its discretion, deems necessary and proper;

(f) To adopt the initial Rules and Regulations covering the Condominium, Units, Common Elements and Facilities which may be amended only by the Unit Owners as provided in the Master Deed;

(g) To maintain businesslike relations with Unit Owners or their lessees whose service requests shall be received, considered and recorded in systematic fashion, in order to show the action taken with respect to each. As part of a continuing program, secure full performance by such Unit Owners or their lessees of all such items and maintenance for which they are responsible;

(h) To arrange for security protection as necessary and to compensate any persons hired for such protection as the Board, in its discretion, deems necessary and proper;

(i) To enforce obligations of the Unit Owners and do anything and everything else necessary and proper for the sound management of the Condominium, including the right to bring lawsuits to enforce the terms, conditions and restrictions contained in the Master Deed, these By-Laws, Dockage Agreements, and any rules and regulations governing the Condominium or Unit Owners;

To borrow and repay monies and give notes, mortgages or other security upon such terms as it deems necessary provided, however, that if any loans, in the aggregate, are in the excess of Five Thousand (\$5,000.00) Dollars, such excess shall receive the assent of two thirds. **(2/3)** of all votes eligible to be cast and present at a special meeting of the Unit Owners duly called for such purpose;

(k) To invest and reinvest monies, sue and be sued; collect interest, dividends and capital gains; exercise rights; pay taxes; make and enter into contracts; enter into leases or licenses on behalf of the Association; make and execute any and all proper affidavits for various purposes; compromise any action without leave of court; and all other powers contained herein, and those necessary and incidental thereto;

(l) To transfer, grant or obtain easements, licenses, leases, and other property rights with respect to the Common Elements in a manner not inconsistent with the rights of Unit Owners subject to the assent of two thirds **(2/3)** of all votes eligible to be cast and present at a special meeting of the Unit Owners duly called for such purpose;

(m) To purchase or lease or otherwise acquire in the name of the Association or its designees, corporate or otherwise, on behalf of all Unit Owners within the Condominium, Units offered for sale or lease or surrendered by their Owners to the Board subject to the assent of two thirds **(2/3)** of all votes eligible to be cast and present at a special meeting of the Unit Owners duly called for such purpose;

(n) To purchase Units within the Condominium at foreclosure or other judicial sales in the name of the Association or its designees, corporate or otherwise, on behalf of all Unit Owners subject to the assent of two thirds **(2/3)** of all votes eligible to be cast and present at a special meeting of the Unit Owners duly called for such purpose;

(o) To sell, lease, mortgage (but not vote the votes appurtenant thereto) or otherwise deal with Units acquired by, and sublease such Units leased by, the Association or its designees, on behalf of all Unit Owners subject to the assent of two thirds **(2/3)** of all votes eligible to be cast and present at a special meeting of the Unit Owners duly called for such purpose;

(p) Subject to the Master Deed, the Board may do all that is legally entitled to do under the laws applicable to its form of organization;.

(q) The Association, through the Board of Trustees, shall discharge its powers in a manner that protects and furthers the health, safety and general welfare of the members of the Association;

5.2. Duties and Responsibilities. It shall be the affirmative and perpetual obligation and duty of the Board of Trustees to perform the following,. all of which are hereby irrevocably delegated to the Board of Trustees of the Association, except as may otherwise be expressly provided to the contrary herein or in the Master Deed, Articles of Incorporation or the Condominium Act:

(a) To cause the Common Elements to be maintained according to accepted standards as set forth in the Master Deed, including, but not limited to such maintenance, replacement and repair work as may be necessary and, in the event that the fencing surrounding the marina clubhouse and pool area contains wire cable elements with turnbuckles to maintain the tension in the elements, to periodically inspect the tension in the wire elements and make all required adjustments to meet tension requirements of all applicable codes;

(b) To maintain, replace, replant and relandscape the lands and general environment in an aesthetically pleasing manner;

(c) To investigate, hire, pay, supervise and discharge the personnel necessary to be employed, and provide the equipment and materials necessary in order to properly maintain and operate the Common Elements. Compensation for the services of such employees shall be considered an operating expense of the Association;

(d) To cause to be kept a complete record of all its acts and corporate affairs and to present an annual report thereof to the Association members at the annual meeting or at any special meeting when requested in writing at least twenty-one (21) days in advance by members entitled to cast at least fifty (50%) percent of the total votes of the Association;

(e) To allocate common surplus or make repairs, additions, improvements to, or restoration of the Common Elements in accordance with the provisions of these By-Laws and

the Master Deed after damage or destruction by fire or other casualty, or as a result of condemnation or eminent domain proceedings;

(f) To take such action as may be necessary to comply promptly with any and all orders or requirements affecting the premises maintained by the Association placed thereon by any federal, state, county or municipal authority having jurisdiction thereover, and order of the Board of Fire Underwriters or other similar bodies;

(g) To place and keep in force all insurance coverage required to be maintained by the Association. The provision for insurance and the establishment of the Board as insurance Trustee shall be as set forth in detail in the Master Deed, and the Board shall administer and provide insurance coverage set forth therein and shall have the right to settle any claims under such policies;

(h) To provide a fair and efficient procedure for the resolution of disputes between individual Unit Owners and the Association and between different Unit Owners that shall be readily available as an alternative to litigation;

(i) To settle any claims by or against the Association as an alternative to litigation provided, however, that the settlement of any claims which in the aggregate exceed (\$20,000.00) in any one (1) fiscal year shall receive the assent of a majority of all votes eligible to be cast and present at a special meeting of the Unit Owners duly called for such purpose.

ARTICLE 6

FISCAL MANAGEMENT

6.1. Fiscal Year. The fiscal year of the Association shall be on a calendar year basis, or such other basis as the Board shall determine.

6.2. Common Receipts. The Board shall have the duty to collect from each Unit Owner, his, her or their heirs, administrators, successors and assigns, as "Common Receipts," a proportionate part of the Common Expenses assessed

against such Unit Owner as provided in the Master Deed, the Articles of Incorporation, these By-Laws, and in accordance with applicable law.

6.3. Determination of Common Expenses. The Budget, including the amount of monies for Common Expenses and reserves deemed necessary by the Board and the manner of allocation and expenditure thereof during the initial year of the Association shall be a matter for the sole discretion of the Board. In all subsequent years, the Budget shall be proposed by the Board and mailed to all Unit Owners, together with the required notice of the annual meeting at which the Budget is to be approved, which shall require a majority of the votes present at the meeting. In the event that the Budget is not approved on the first ballot, each item of expenditure shall be voted on with a majority of the votes present at the meeting required for approval of each item. If any line item of expenditure not approved by a majority of the votes present at the meeting, the budgeted amount of such expenditure for the first preceding year's Budget, increased by the change in the consumer price index, shall be deemed approved for the current year's Budget.

6.4. Disbursements. The Board shall take the funds as collected and shall disburse the same for the purposes and in the manner set forth herein and as required by the Master Deed, Articles of Incorporation, and applicable law.

6.5. Depositories. The depository of the Association shall be at such bank or banks insured by the FDIC as shall be designated from time to time by the Board and in which the monies of the Association shall be deposited. Withdrawal of monies from such accounts shall be only by checks signed by the Treasurer and an authorized Trustee from the Board, or their designees provided that a management agreement may include among its provisions authority for the manager to sign checks on behalf of the Association for payment of such obligations of the Association incurred in the ordinary course of business and as set forth in such management agreement in writing, if the proper fidelity bond is furnished to the Association. The Board shall be permitted to maintain a petty cash fund not to exceed ONE THOUSAND (\$1,000.00) DOLLARS.

6.6. Accounts. The receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications as shall be appropriate, all of which expenditures shall be Common Expenses:

(a) Current expenses, which shall include all receipts and expenditures within the year for which the budget is made, including a reasonable allowance for contingencies and working funds, except expenditures chargeable to reserves, or to additional improvements, or to rental operations. The balance of this fund at the end of each year may be applied to reduce the assessments for current expenses for the succeeding year, placed

in reserve or distributed to the membership as the Board shall determine;

(b) Reserves for deferred maintenance, which shall include funds for maintenance items that occur less frequently than annually;

(c) Reserves for replacement, which shall include funds for repair or replacement of Common Elements or Facilities required because of damage, depreciation or obsolescence, and which shall be allocated among each of the separate categories of replacement items;

(d) Reserves for capital improvements, which shall include the funds to be used for capital expenditures for additional improvements or additional personal property that will be part of the Common Elements; and . .

(e) Rental operations, which shall include any gross revenue from the use of the Common Elements or from any other sources. Only the additional direct expense required by any revenue producing rental operation will be charged to this account, and any surplus from any rental operation shall be used to reduce the assessments for current expenses for the year during the one in which the surplus is realized, or at the discretion of the Board, in the year following the one in which the surplus is realized. Losses from functions shall be met by added assessments against Unit Owners, which assessments may be made in advance in order to provide a working fund.

6.7. Reserves. The Board shall not be obligated to expend all of the revenues collected in any accounting period, and must maintain reasonable reserves for, among other things, repairs, replacements, emergencies, contingencies of bad weather or uncollected accounts. Despite anything herein to the contrary, the Board in its determination of the Common Expenses and the preparation of a budget, shall specifically designate and identify what portion of the Common Expenses to be assessed against the Unit Owners is allocable to reserves for each separate item or repair and improvement of and to said property. The amounts thus assessed and collected for each such separate item of repair and improvement shall be kept in an interest-bearing savings, money market account or in a certificate of deposit, appropriately earmarked for such category. The foregoing shall not be construed to mean that the Board shall not be permitted to keep an amount allocated to reserves not

to exceed Five Thousand (\$5,000.00) Dollars in a separate checking account for the necessary discharge of its functions.

6.8. Notice. The Board shall give notice to each Unit Owner, in writing, of the amount of each Unit Owner's annual Common Expense Assessment for the next ensuing period, and the amounts and dates of installment payments thereof, directed to the Unit Owner at his last known address by ordinary mail. Said notice shall be conclusively presumed to have been made in the amount of the last prior year's Common Expense Assessment, and installments on such Assessment shall be due upon each installment payment date until changed by an amended Assessment. In the event the annual Common Expense Assessment proves to be insufficient, Special Assessments, Emergency Assessments and Capital Improvement Assessments may be made pursuant to the Master Deed.

The Association shall, upon the request of any Unit Owner, furnish to such Unit Owner a certificate in writing, signed by an officer of the Association, setting forth whether Common Expense, Special, Emergency or Capital Improvement Assessments have been paid by such Unit Owner. Such certificate shall constitute conclusive evidence of the payment of any Assessments therein stated to have been paid.

6.9. Acceleration of Assessment Installment Upon Default. If a Unit Owner shall be in default in the payment of an installment of a Common Expense Assessment, or a Special, Emergency or Capital Improvement Assessment, the Board may accelerate the remaining installments of the Assessments for the remaining term of the Assessments, 1.1pon notice to the Unit Owner, and the then unpaid balance of the Assessments shall come due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the Unit Owner, or not less than ten (10) days after the mailing of such notice to him by registered or certified mail, whichever shall first occur.

6.10. Interest and Counsel Fees. The Board., at its option, shall have the right in connection with the collection of any Assessments, or other charge, provided herein or in the Condominium Documents, to impose a late charge up to the legal maximum rate of interest if such payment is made after the due date of the Assessments. In the event the Board of Trustees is not successfully collecting the unpaid Assessments from a Unit Owner, the Board shall effectuate collection of said charges by resort to legal counsel and may add to the

aforesaid charge or charges reasonable attorneys' fees. The unpaid Assessments plus interest and attorneys' fees shall, upon filing of a claim of lien by the Association and recordation in the Ocean County Clerk's Office, constitute a lien on the Unit in accordance with the Condominium Act.

6.11. Annual Audit. The Board shall submit its books and records to an annual audit by an independent accountant who shall audit the same and render a certified or uncertified report therein in writing to the Board and in summary form, or in full form if requested by a Unit Owner, to the Unit Owners.

While the Grantor maintains the majority of the Board of Trustees, it shall cause to be prepared an annual uncertified audit of the Association funds. The audit shall be prepared by an independent accountant. A copy of the audit shall be delivered to each Unit Owner within ninety (90) days of the expiration date of the fiscal year of the Association. The audit shall cover the operating budget and reserve accounts.

6.12. Examination of Books. Each Unit Owner shall be permitted to examine the books of account of the Board at a reasonable time on business days, provided, however, that the assurer has been given at least ten (10) days' prior written notice of the Unit Owner's desire to make such an examination.

ARTICLE 7

OFFICERS

7.1. Designation. The principal officers of the Association shall be a President and a Vice President, who shall be members of the Board, and a Secretary and a Treasurer, who need not be members of the Board. The Board may also appoint such other Assistant Vice Presidents, Assistant Treasurers and Assistant Secretaries as in their judgment may be necessary. Any Two (2) offices, except that of President and Vice President, may be held by one (1) person. If not a member of the Board, the Secretary and Treasurer, and Assistant Treasurers and Assistant Secretaries, if any, shall be required to attend all Board meetings.

7.2. Election of Officers. The officers of the Association shall be elected annually by the Board of Trustees at the first Board of Trustees meeting following each annual meeting which shall be held not later than two (2) weeks after such annual meeting, and such officers shall hold office at the pleasure of the Board as set forth in Paragraph 7.3.

The initial officers of the Association shall be elected by the Board of Trustees at the first Board of Trustees meeting which shall be held within four (4) weeks after the filing of the Articles of Incorporation of the Association.

7.3. **Removal of Officers.** Upon an affirmative vote of a two-thirds (2/3) majority of the members of the Board of Trustees, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board of Trustees, or at any special meeting called for such purpose. This provision does not apply. to any officer elected while Grantor maintains a majority of the Board of Trustees, who may be removed only by Grantor.

7.4. **Duties and Responsibilities of Officers.**

(a) **President.** The President "shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board. He shall have all of the general powers and duties which are usually vested in the office of the President of an Association, including but not limited to the power to appoint committees from among the members of the Association from time to time as he may in his discretion deem appropriate to assist in the conduct of the affairs of the Association. The President shall be an ex officio member of any committees appointed herein.

(b) **Vice President.** The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board shall appoint some other Trustee to do so on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board. The Vice President shall be an ex officio member of any committees appointed herein.

(c) **Secretary.** The Secretary shall keep the minutes of all meetings of the Board and the minutes of all meetings of the members of the Association; he shall have charge of such books and papers as the Board may direct; and he shall: in general", perform all the duties incident to the office of the Secretary including, but not limited to, sending general correspondence to the Association members, receiving notices and providing notices.

(d) **Treasurer.** The Treasurer shall have the responsibility for the Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in books belonging to the Association. He shall be responsible for t:he deposit of all monies and other valuable effects, and to the credit: of the Association in such depositories as may from time to time be authorized by the Board. The Treasurer may employ a bookkeeper or accountant at reasonable compensation to be paid by the Association to assist him in fulfilling his. responsibilities. The Treasurer and one other Trustee shall be signatories on all checks of the

Association.

7.5. **Other Duties and Powers.** The officers shall have such other duties, powers and responsibilities as shall, from time to time, be authorized by the Board.

7.6. **Eligibility of Trustees.** Nothing herein contained shall prohibit a Trustee from being an officer.

ARTICLE 8

COMPENSATION AND INDEMNIFICATION OF OFFICERS AND TRUSTEES

8.1. **Compensation.** No compensation shall be paid to any Officer or any Trustee for acting as such Officer or Trustee. Nothing herein stated shall prevent any officer or Trustee from being reimbursed for out-of-pocket expenses or compensated for services rendered in any other capacity to or for the Association.

8.2. **Indemnification and Insurance.** Each Trustee and officer of the Association, and their delegates, shall be indemnified by the Association against the actual amount of net loss including counsel fees, reasonably incurred by or imposed upon him in connection with any action, suit or proceeding to which he may be made a party by reason of his being or having been a Trustee or officer of the Association, or delegate, except as to matters as to which he shall be finally found in such action to be liable for gross negligence or willful misconduct. Trustees appointed by Grantor shall not be exculpated from their fiduciary duty. The Association shall maintain, at all times, appropriate trustees and officers insurance.

8.3. **Exculpability.** Neither the Board as a body nor any Trustee nor any officer of the Association, nor the delegates or appointees or any of them, shall be personally liable to any member in any respect for any action or lack of action rising out of the execution of the duties of his office in the absence of a showing of bad faith, and each member and Unit Owner shall be bound by the good faith actions of the Board and officers of the Association or the delegates or appointees, in the execution of the duties of Trustees and officers. Nothing contained herein to the contrary shall serve to exculpate the Trustees appointed by the Grantor from their fiduciary appointed responsibilities to the Unit Owners.

ARTICLE 9

ENFORCEMENT

9.1. **Enforcement.** The Association shall have the power, at its sole option, to enforce the terms of this instrument, the Master Deed or any rule

or regulation promulgated pursuant thereto, by any or all of the following: self-help; sending notice to the offending party ' cause certain things to be done or undone; restoring the Association to its original position and charging the breaching party with the entire cost or any part thereof; complain

to the duly constituted authorities; or by taking any other action before any court, summary or otherwise, as may be provided by law. Any attorneys' fees incurred by reason of enforcement of the Master Deed, By-Laws or any rule or regulation promulgated pursuant thereto shall be charged to the breaching party. Collection of the attorneys' fees may be enforced against the Unit Owner(s) involved as if the attorneys' fees were a Common Expense owed by the particular Unit Owner(s).

9.2. Fines. The Association shall also have the power to levy fines against any Unit Owner(s) for violation(s) of any provision or restriction contained in the Master Deed, By-Laws or Rules or Regulations, except that no fine may be levied for more than ONE HUNDRED (\$100.00) DOLLARS for any one violation; but for each day a violation continues after notice it shall be considered a separate violation. Collection of the fines may be enforced against the Unit Owner(s) involved as if the fine were a Common Expense owed by the particular Unit Owner(s). Any system imposed for the levy and collection of fines shall be uniform and equally enforced.

9.3. Waiver. No restriction, condition, obligation or covenant' contained in these By-Laws shall be deemed to have been abrogated or waived by reason of the failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

ARTICLE 10

GRANTOR'S PROTECTIVE PROVISIONS

So long as the Grantor owns at least one (1) unit and holds the same for current sale or lease in the ordinary course of business, the following shall apply:

(a) Neither the Association nor its Board of Trustees shall take any action that will impair or adversely affect the rights of the Grantor or cause the Grantor to suffer any financial, legal or other detriment, including but not limited to any direct or indirect interference with Grantor's ability to sell or lease the Units or the actual sale or lease thereof.

(b) The Association and its Board of Trustees shall continue the same level of maintenance, operation and services as provided immediately prior to the assumption of control of the Association and the Board of Trustees by Unit Owners other than the Grantor.

(c) In furtherance of the foregoing provisions, the Grantor shall have the right to veto any and all actions of the Association or its Board of Trustees which may have any direct or indirect detrimental impact upon the Grantor.

(d) The Grantor shall exercise its veto right within ten (10) days after its receipt of notice that a resolution or other action is proposed or

has been taken by the Association or its Board of Trustees. In such event, the Grantor shall notify the Secretary of the Association of its exercise of its veto right and any such proposal or action shall be null and void ab initio and of no further force or effect.

The aforementioned protective provisions shall be construed in accordance with and not in derogation of N.J.S.A. **46:8B-12.1** of the New Jersey Condominium Act.

ARTICLE 11

AMENDMENTS

These By-Laws, or any of them, may be altered or repealed and new By-Laws may be made at any annual or special meeting of the Association duly constituted for such purpose, a quorum being present, by an affirmative vote of two-thirds (2/3) of the total votes present at the meeting entitled to be cast in person or by proxy, except that the first annual meeting may not be advanced and the first Board of Trustees (including replacements in the case of vacancies) may not be removed by reason of any such amendment or repeal. Despite any provision to the contrary herein, no amendment may be made to these By-laws that refer specifically to the rights of the Grantor or that will impair or adversely affect the rights of Grantor or cause the Grantor to suffer any financial, legal or other detriment, including but not limited to any direct or indirect interference with Grantor's sale or lease of Units.

ARTICLE 12

MISCELANEOUS

12.1. Association Membership List. The Association is required to keep an updated list of all members in the Association and a list of all mortgagees. This list will contain the names , home addresses and telephone numbers of the Unit Owners in the Condominium. The purpose of this list is to allow the Association to give notice to the Unit Owners as required by the By-Laws or any other Condominium Documents.

12.2. Dissolution and Distribution of Assets. The Condominium Association may be dissolved if the Board of Trustees recommends to the Unit Owners that a plan of dissolution be adopted, and thereafter directs that the plan of dissolution be submitted to a vote at a meeting of the Unit Owners. Notice of the meeting shall be given to each Unit Owner entitled to vote at the meeting within the time and in the manner provided in these By-Laws for the giving of notice of meetings of Unit Owners. At the meeting a vote of the members shall be taken on the proposed plan of dissolution. The plan of dissolution shall be approved upon receiving an affirmative vote of eighty (80%) percent of all votes entitled to be cast by all Unit Owners, whether or not present at the meeting, in person or by proxy. All assets of the Association remaining after the satisfaction of the Association's liabilities shall be distributed to the Unit Owners in proportion to each Unit Owner 's undivided percentage interest in the Common Elements of the Condominium. Each unit Owner's share of the proceeds shall first be applied to any liens or encumbrances on any Unit.

ARTICLE 13

CONFLICT: INVALIDITY

13.1. Conflict. Despite anything to the contrary herein, if any provision of this instrument is in conflict with or in contradiction of the Master Deed, or with the requirements. of any law, then the requirements of said Master Deed or law shall be deemed controlling , with the requirements of any law also .controlling the Master Deed.

13.2. Invalidity. The invalidity of any part of these By-Laws shall not impair or feet in any manner the enforceability or affect the balance of the By-Laws.

ARTICLE 14

NOTICE

Any notice. required to be sent to any Unit Owner under the provisions of the Master Deed or Articles of Incorporation or these By-Laws shall be deemed to have been properly sent and notice hereby given, when mailed, by regular post with postage prepaid, except as otherwise specifically provided, addressed to the Unit Owner at the last known post office home address of the person who appears as a member on the records of the Association at the time of such mailing. Notice to one of two or more co-owners of a Unit shall constitute notice to all co-owners. It shall be the obligation of every Unit Owner to immediately notify the Secretary of the Association in writing of any change of address.

ARTICLE 15

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words " High Bar Harbor Yacht Club Condominium, Inc. which shall be kept by the Secretary and affixed to all documents executed in the name of the Association when required.

ARTICLE 16

GENDER

The use of the masculine gender in these By-Laws shall be deemed to refer to the feminine or neuter gender and the use of the singular shall be deemed to refer to the plural, and visa versa, whenever the context so requires.

END OF DOCUMENT