

SOUTHPORT ON CAPE COD CONDOMINIUM ASSOCIATION, Inc.
CERTIFICATE OF APPOINTMENT AND ACCEPTANCE, CONFIRMATORY
CERTIFICATE OF CURRENT DIRECTORS AND OF DELEGATION OF
AUTHORITY

Reference is made to a Master Deed dated September 9, 1998 and filed with the Barnstable County Registration District of the Land Court on September 15, 1998 as Document Number 739638, noted on Certificate of Title C 313, as may be amended, which Master Deed established, pursuant to Massachusetts General Laws, Chapter 183A, the Southport on Cape Cod Condominium.

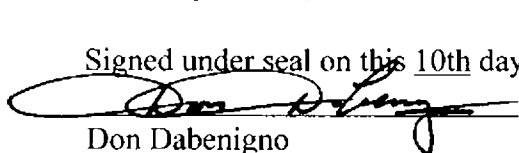
In accordance with Section 3 of the Master Deed, the following six (6) individuals are the current duly elected and/or appointed members of the Board of Governors:

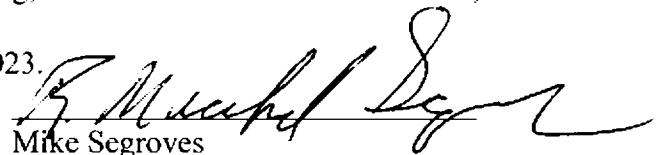
Don Dabenigno, President	Term Expires September 2025
Doug Adams, Director	Term Expires September 2024
Mary Gallagher, Director	Term Expires September 2025
Charlene McCabe, Director	Term Expires September 2024
Mike Segroves, Clerk	Term Expires September 2025
Mike Sparkes, Treasurer	Interim Appointee

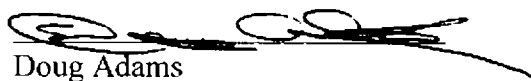
The purpose of this certificate is to confirm the appointment of Don Dabenigno, Douglas Adams, Mary Gallagher, Charlene McCabe, Mike Segroves, Mike Sparkes as the existing Board of Governors and appointed Treasurer of said Association.

Further, By this certificate the Board of Governors of the Association hereby delegates its authority to execute certificates pursuant to the terms of Massachusetts General Laws c. 183A, §6(d) on behalf of the Association to the following named individuals: Don Dabenigno, Douglas Adams, Mary Gallagher, Charlene McCabe, Mike Segroves, Mike Sparkes and TDG Management, Inc. d/b/a The Dartmouth Group, its agents, servants and/or employees including Kimberly Brauer, Deanna Mitchell, Aaron Oldenburg, Sarah Kubik and James T. Stento, Jr.

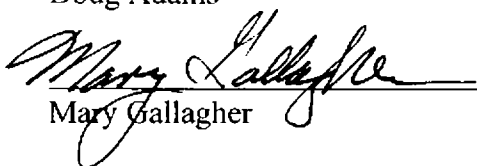
Signed under seal on this 10th day of November, 2023.

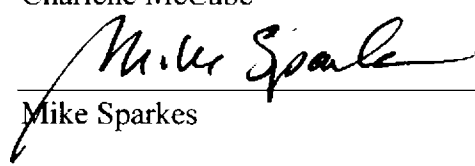

Don Dabenigno


Mike Segroves


Doug Adams


Charlene McCabe


Mary Gallagher

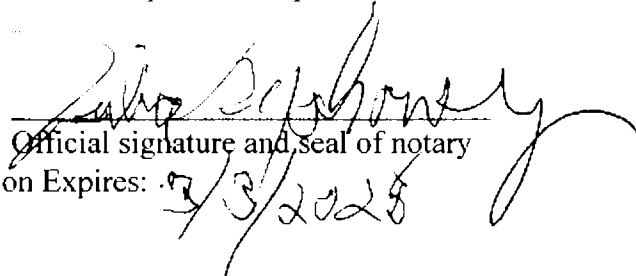

Mike Sparkes

COMMONWEALTH OF MASSACHUSETTS

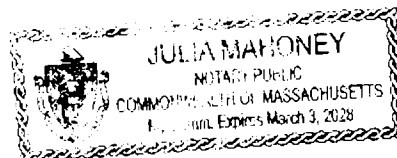
Barnstable, ss.

November 14, 2023

On this 14 day of November, 2023, before me, the undersigned notary public, personally appeared Don Dabenigno, Douglas Adams, Mary Gallagher, Charlene McCabe, and Mike Septraves, Mike Sparkes proved to me through satisfactory evidence of identification, which was MA ID to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose, as a duly authorized member of the Board of Governors of the Southport on Cape Cod Condominium Association, Inc.


Official signature and seal of notary

My Commission Expires: 3/3/2028



**BY-LAWS OF
SOUTHPORT ON CAPE COD CONDOMINIUM ASSOCIATION, INC.**

ARTICLE I—DEFINITIONS

All terms and expressions herein used which are defined in Chapter 183A, Section 1, of the General Laws of Massachusetts, as amended, ("Chapter 183A") or in the Master Deed to which reference is hereinafter made shall have the same meanings unless the context clearly indicates otherwise. Further, the additional terms defined in this Article shall, for all purposes of these By-Laws, have the meaning herein specified.

Articles of the Association shall refer to the Articles of Organization of Southport on Cape Cod Condominium Association, Inc., (hereinafter referred to as the "Association") which are filed in the office of the Secretary of The Commonwealth of Massachusetts, a true copy of which is on file at the principal office of the Association, together with such amendments to the Articles of the Association as may from time to time be properly made.

Association shall mean Southport on Cape Cod Condominium Association, Inc., and shall have the same meaning as "Organization of Unit Owners" as defined in Chapter 183A, Section 1, of the General Laws of Massachusetts, i.e., "the ... association owned by the unit owners and used by them to manage and regulate the condominium."

Board of Governors shall mean the Board of Directors of the Association, individually a Governor.

By-Laws of the Association or By-Laws shall mean these By-Laws of the Association as they maybe amended from time to time, pursuant to the provisions hereof.

Condominium shall mean Southport on Cape Cod.

Southport on Cape Cod Master Deed see Master Deed.

Southport on Cape Cod shall mean the premises submitted to the provisions of Chapter 183A of the General Laws of Massachusetts as a Condominium by the Master Deed and any Amendments thereto duly adopted and recorded.

Declarant shall refer to Cape Southport Associates LLC unless otherwise noted and any Successor Declarant as defined in the Master Deed.

Fiscal Year shall mean July 1 to June 30 unless changed or modified by the Board of Governors.

HOPA shall mean the Housing for Older Persons Act of 1995 amending the Fair Housing Act (Title VIII of the Civil Rights Act of 1968) as amended and any rules and regulations adopted thereunder.

Master Deed shall mean the Master Deed by which Southport on Cape Cod is submitted to the provisions of Chapter 183A which is filed and registered with Barnstable Registry District of the Land Court.

Member of the Association shall mean any person, corporation, partnership, joint venture or other legal entity which is a member of the Association as defined in these By-Laws of the Association, the Articles of the Association, the Master Deed and Chapter 183A.

Organization of Unit Owners see Association.

Owner see Unit Owner.

Person shall mean an individual, corporation, unincorporated association, partnership, joint venture, conservator, administrator, or any other entity which has the right to hold title to real property.

Property shall mean the land, buildings, and all other Improvements thereon in the Condominium.

Restrictions shall mean any restrictions contained in the Master Deed and these By-Laws of the Association.

Rules and Regulations of the Association shall mean the Southport on Cape Cod Rules and Regulations as may be adopted by the Board of Governors pursuant to the provisions of the Master Deed and these By-Laws of the Association, as they may be amended from time to time. **Unit** shall mean a Unit of the Condominium as defined in Chapter 183A and in the Master Deed.

Unit Owner shall mean a person or persons owning a Unit.

ARTICLE II - GENERAL

Section 1 - The Condominium

The Condominium is located on a parcel of Land situated in Mashpee, Massachusetts more particularly described in the Master Deed registered with the Barnstable Registry District of the Land Court (hereinafter the "Registry of Deeds") and shown on the site plan recorded with said Master Deed entitled "Southport on Cape Cod, Phase Plan", said Plan being the Condominium

Plans hereafter referred to.

Section 2 - The Association

The Association has been organized to perform the functions set forth in Section 10 of said Chapter 183A or as otherwise set forth in Chapter 183A and those functions described in these By-Laws of the Association, except for those to be performed by others as set forth in the By-Laws of the Association or the Master Deed. The Association is charged with the duties and has all of the rights and powers available to an Organization of Unit Owners as set forth in Chapter 183A or otherwise by law and all duties, rights and powers set forth in the Master Deed, the Articles of the Association and these By-Laws of the Association, as any of the same may be amended from time to time, subject to the rights and powers received to the Declarant in the Master Deed, including, without limitation, the Development Rights. Neither the Articles of the Association nor the By-Laws of the Association shall, for any reason, be changed or interpreted so as to be inconsistent with the Master Deed or Chapter 183A.

The Association is an organization owned by the Unit Owners of the Condominium and used by them to manage and regulate the Condominium. Each Unit Owner, upon becoming a Unit Owner, and for so long as such person is such a Unit Owner, shall be deemed a Member of the Association. The rights, duties, privileges, immunities and liabilities of each Member of the Association shall be as set forth in and shall be exercised in accordance with the Master Deed, the Articles of the Association, these By-Laws of the Association, and the Rules and Regulations of the Association as any of the same may be adopted or amended by the Association or by the Board of Governors or by Declarant, as provided therein.

Membership in the Association shall not be transferred, pledged or alienated in any way, except upon transfer of title of a Unit (including by mortgage) and then only to the transferee of title, except in the instance of suspension of membership as provided hereunder. Any attempt to make a prohibited transfer shall be null and void.

Section 3 - Provisions of By-Laws Applicable

The provisions of these By-Laws of the Association are applicable to the Condominium, the Units and the Common Areas and Facilities of the Condominium and to the use and occupancy thereof and shall automatically become applicable to any property which may be added to the Condominium by act of the Declarant or of the Association.

Section 4 - By-Laws Applicable to Present and Future Owners

All present and future Owners, Mortgagees, lessees and occupants of Units and their employees, guests and any other person(s) who may use the Facilities of the Condominium in any manner are subject to these By-Laws of the Association, the Rules and Regulations of the Association, the restrictions contained in the Master Deed and the Articles of the Association. The acceptance of a deed to a Unit, taking conveyance of a Unit, entering into a lease for use of a Unit or the act of occupying a Unit shall constitute an agreement that all of the above documents, restrictions and conditions, as they may be amended from time to time, are accepted and ratified and will be honored and observed.

Section 5 - Office of the Association

The office of the Association and of the Board of Governors shall be located at the Condominium or at some other location within the Commonwealth, as may be selected from time to time by the Board of Governors. The Board of Governors shall give written notice to the Unit Owners and listed Mortgagees of any new location of its office.

Section 6 - Certificates of Membership

The Board of Governors may, if it deems appropriate or convenient, but need not, provide for the issuance of certificates of membership in the Association in a form which it shall determine. One such certificate, if provided, shall be issued for each Unit and shall contain the name and address of the member or members who own such Unit, the Unit designation, its location, and the beneficial interest appurtenant to said Unit. The date of issuance shall be entered in the records of the Association of the Clerk. Failure of the Board of Governors to issue or of any transferring Unit Owner to surrender any such certificate shall in no way affect the rights or obligations of the original or any subsequent Unit Owner, and the transfer of any Unit shall be deemed to automatically cancel any such certificate in the hands of any transferring Unit Owner and to reissue such certificate in the names of the transferee of such Unit.

Section 7 - Documents Available for Review

Copies of the By-Laws of the Association, the Articles of the Association, the Rules and Regulations of the Association and the Master Deed, as they may be adopted or amended from time to time, shall be available for inspection by Unit Owners and their authorized agents during

reasonable business hours.

Section 8 - Termination

Subject to the provisions of the Master Deed, the Unit Owners may remove the Condominium from the provisions of Chapter 183A of the General Laws of Massachusetts and the Master Deed by the procedure set forth in the appropriate section of said Chapter 183A, as may be amended from time to time; provided, however, that the Unit Owners shall obtain the prior written approval of the Division of Water Pollution Control, Department of Environmental Protection (DEP).

Upon such removal, the Unit Owners shall be deemed to own the Condominium property as tenants in common, with undivided interest therein in the same percentage of undivided interest previously held by each Unit Owner in the Common Areas and Facilities.

Further, upon such removal, the Unit Owners shall be deemed to have withdrawn the Condominium property from the provisions of said Chapter 183A.

The removal provided for in this Section and in the Master Deed shall not bar the subsequent resubmission of the property to the provisions of Chapter 183A of the General Laws of Massachusetts.

ARTICLE III - MEMBERSHIP AND VOTING RIGHTS

Section 1 - Membership

Every person who is an Owner of a Unit shall be a Member of the Association, except that any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association unless and until such security interest has been foreclosed and such secured party or its transferee has taken possessory title to the Unit.

Section 2 - Voting

A Member of the Association shall be entitled to a vote in the percentage of interest from time to time appurtenant to the Unit in which such Member holds the interest required for membership as described in Paragraph 6 of the Master Deed. When more than one person holds such interest in any Unit all such persons shall be members of the Association and the vote for such Unit shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast on any issue with respect to any Unit and such vote shall be cast as an entirety.

Section 3-Voting by Ballot (as Amended by Amendment recorded 10/29/18)

Notwithstanding any provision, the Board of Governors shall provide a ballot with a direct proxy for matters that require a unit owners vote.

ARTICLE IV--BOARD OF GOVERNORS**Section 1 - Constitution**

The number of Governors which shall constitute the whole Board of Governors shall be at least five (5) and no more than seven (7).

For so long as Declarant reserves the right to designate Governors as provided in Section 5 of this Article, the Governors need not be Unit Owners. Thereafter the Successor Governors, elected by the Members of the Association, shall be Members. Governors designated by Declarant shall serve until the election of the first Board of Governors elected by the Members. Governors elected by the Members shall be elected on an annual basis. In any event, however, each Governor shall hold office until such time as such Governor's Successor has been elected and qualified, except in the event of death, resignation, removal and, as to Governors elected by the Members, suspension of Membership or sale by such Governor of all Units in the Condominium belonging to such Governor which renders such person ineligible to be a Governor. In the event that a corporation or other legal entity is a member of the Association, it may designate one or more natural persons who shall be eligible to serve as Governor.

Section 2 - Election

Subject to the provisions of these By-Laws concerning the designation of Governors by Declarant, at each annual meeting of the Association or at a special meeting called for this express purpose, the Members shall elect Governors to fill such vacancies as may exist on the Board of Governors. There shall be no cumulative voting. The candidates receiving the highest number of votes, up to the number of Governors to be elected, shall be deemed elected.

Section 3 - Resignation

Any Governor may resign at any time by giving written notice to the President or to the Clerk of the Association and thereupon such resignation shall take effect at the time specified in said written notice.

Section 4 - Powers and Duties of the Board of Governors

The Board of Governors shall have the powers and duties necessary for the administration of the affairs of the Condominium and may do all such acts and things permitted by Chapter 183A or otherwise as a matter of law except as provided to the contrary by the Master Deed or by these By-Laws. Such powers and duties of the Board of Governors shall include, but shall not be limited to, the following:

- a. Providing for the operation, care, upkeep and maintenance of the Common Areas and Facilities of the Condominium and the exterior of any Unit and its appurtenant structures as provided in Article VIII hereof.
- b. Determining the common expenses of the Condominium and the allocation of income and expenses.
- c. Collecting the common charges from the Owners, including the enforcement of collections by methods described elsewhere in the By-Laws or otherwise permitted under Chapter 183A.
- d. Opening bank accounts on behalf of the Association and designating signatories required therefor.
- e. Leasing, managing and otherwise dealing with such Condominium Facilities as may be provided for as Common Areas and Facilities, including without thereby limiting the generality of the foregoing, the right to grant permits, licenses and easements over the Common Areas for utilities, passage rights and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium. Subject to the limitations set forth in Chapter 183A, the Board of Governors may appoint and contract with a manager or managing agent to manage the Condominium.
- f. Owning, conveying, encumbering, leasing and otherwise dealing with Units conveyed to it or purchased by it or by the Association as the result of enforcement of a lien for common expenses or otherwise.
- g. Obtaining insurance for the Common Areas and Facilities and for Units as provided elsewhere in these By-Laws.
- h. Making repairs, additions, improvements to or alteration of the Common Areas and Facilities in accordance with the other provisions of these By-Laws and as described in

the Master Deed.

- i. Enforcing obligations to be performed or observed by the Unit Owners imposed on them by the Master Deed, these By-Laws and the Rules and Regulations promulgated pursuant hereto, including without limiting the generality of the foregoing, legal action to collect payment of common area expenses assessed. No legal action, however, shall be commenced by the Association or its Board of Governors against parties other than Unit Owners, without the prior affirmative assent of seventy-five (75%) percent of the Unit Owners (based upon the beneficial interest in the Association) and specifying as a part of the assent a specific monetary limitation to be paid as legal fees and costs and expenses to be incurred in connection therewith; which assent shall also include a special assessment on all the Unit Owners payable forthwith for an amount equal to such monetary limitation.
- j. Adopting rules and regulations relating to the use, upkeep and preservation of the Condominium.
- k. Promulgating fines for violation of the Rules and Regulations, which fines shall be paid to the Association.
- l. Establishing a minimum thermostat temperature setting within each Condominium Unit.
- m. Designating and setting aside portions of the Common Areas and Facilities under their control (1) for the collection and reception of mail for the Condominium residents; (2) as storage areas for such tools, equipment and supplies as are used in the maintenance and upkeep of the Condominium; (3) for the parking of any vehicles other than passenger automobiles which may be permitted by the Board of Governors, including any trucks, recreational vehicles, boats or trailers and other vehicles and recreational equipment which may be permitted; and (4) for any other purpose which the Board of Governors, in its discretion, deems to be in the best interests of the Condominium as a whole.
- n. Making and enforcing such Rules and Regulations and establishing such programs and procedures as may be necessary or convenient to meet the requirements of HOPA and to maintain the Condominium as a 55 years and older community.

Section 5 - The First Board of Governors and Subsequent Boards

The first Board of Governors and their Successors shall be designated by the Declarant and shall consist of five (5) members who shall serve until the earlier of the following events:

- a) Four (4) months after seventy-five (75%) percent of all of the Units in the Condominium,

including all Units to be added by Amendments in all subsequent Phases as provided in the Master Deed, have been conveyed to Unit Purchasers, or twenty (20) years after conveyance of the first Unit to a Unit Purchaser; whereupon those Governors designated by the Declarant as aforesaid shall resign and their Successors shall be elected at a Special Meeting of the Association called for that purpose.

At each annual meeting thereafter, all Members of the Board of Governors shall be elected by the members of the Association to fill vacancies in the Board of Governors and/or vacancies created by expiration of a term and all such Successors thereafter to the Board of Governors shall be Unit Owners and Members of the Association. Any Governor elected to fill a vacancy in the Board of Governors otherwise created shall be elected to fill the unexpired term.

The purpose of the foregoing provision is to comply with the requirements imposed by the Federal National Mortgage Association (FNMA) necessitating the transfer of control of the Condominium to the Unit Owners as above provided. For this purpose, "control" means the right of the Declarant to control the Unit Owners' Association or its Board of Governors, the Condominium itself or the Unit Owners in any manner, except through votes allocated to Units owned by the Declarant on the same basis as votes pertaining to sold Units.

Section 6 - Resignation and Removal

Any Governor may resign at any time by instrument in writing signed and duly acknowledged by that Governor in the manner required in Massachusetts for the acknowledgment of deeds and such resignation shall take effect as in said instrument set forth. While the Declarant shall have the right to designate the Board of Governors of its choice, the Declarant may remove any Governor with or without cause, and after the expiration of the Declarant's right to designate, any Governor may be removed with or without cause, by vote of Unit Owners entitled to more than fifty (50%) percent of the beneficial interest hereunder and the vacancy resulting from such removal shall be filled in the manner provided in Section 7 of this Article. Any removal shall become effective upon the filing with the Secretary of State a certificate of officers signed by the Clerk or Assistant Clerk of the Association.

Section 7-Vacancies in the Board of Governors

Vacancies in the Board of Governors caused by any reason other than the removal of a Governor under Section 6 of this Article, shall be filled by vote of a majority of the remaining Governors at a special meeting of the Board of Governors held for that purpose, which meeting shall be held promptly after the occurrence of any such vacancy, even though the remaining Governors present at

such meeting may constitute less than a quorum, and each person so elected shall be a Governor until the next annual meeting or special meeting of the Members of the Association duly called and held for the express purpose of electing a Governor to fill the vacancy for the duration of the unexpired term, except that any vacancy occurring while the Declarant has the right to designate the Board of Governors shall be filled by designation by the Declarant.

Section 8-Board of Governors Meeting Following First Annual Meeting

Within ten (10) days after the first annual meeting of the Members of the Association, there shall be a meeting of the Board of Governors at such time and place as shall be fixed by the Unit Owners at such meeting and no notice shall be necessary to the Governors in order legally to constitute such meeting, provided a majority of the whole Board of Governors shall be present thereat.

Section 9--Regular Meetings

Regular meetings of the Board of Governors may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Governors. Notice of regular meeting shall be given to each Governor at least three (3) business days prior to the day named for such meeting.

Section 10--Special Meetings

Special meetings of the Board of Governors may be called by the President of the Association on three (3) business days' notice to each Governor given by mail, telephone or fax, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Governors shall be called by the President or Clerk in like manner and on like notice on written request of at least three (3) Governors.

Section 11 - Waiver of Notice of Meetings

Any Governor may at any time in writing waive notice of any meeting of the Board of Governors and such waiver shall be deemed equivalent to the receipt of such notice.

Section 12 — Quorum

At all meetings of the Board of Governors, a majority of the members thereof shall constitute a quorum for the transaction of business and the vote of a majority of the Governors present at a meeting at which a quorum is present shall constitute the decision of the Board of Governors. If at any meeting of the Board of Governors, there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time.

Section 13—Compensation of the Board of Governors

No member of the Board of Governors shall receive any compensation from the Association for acting as such, except for reimbursement of necessary and duly incurred expenses.

Section 14—Governors Not Liable

The Governors shall not be liable to the Members of the Association for any mistake of judgment, negligence or otherwise, except for their own individual willful misconduct or bad faith. The Unit Owners shall, to the extent of their Unit ownership, indemnify and hold harmless each member of the Board of Governors against personal contractual liability to others arising out of contract made by the Board of Governors on behalf of the Association, unless any such contract shall have been made in bad faith or contrary to the provisions of the Master Deed or the By-Laws of the Association. It is intended that the members of the Board of Governors shall have no personal liability with respect to any contract made by them on behalf of the Association. The first Board of Governors is specifically authorized to contract for goods or services with the Declarant, or employees or affiliates of the Declarant, whether or not such persons are members of the Board of Governors and no such contract shall be deemed to involve a conflict of interest.

Section 15 - Records

In addition to the documents required to be maintained under Section 7 above, the Board of Governors shall cause to be kept detailed records of the actions of the Board of Governors and of the Association, including, but not limited to, minutes of the meetings of the Unit Owners and financial records and books of account of the Association, to which records the Unit Owners and their Mortgagees shall be entitled to reasonable access, all in accordance with the provisions of Section 10(c) of Chapter 183A.

Section 16 - Annual Report

The Board of Governors shall cause an annual financial report for the Condominium to be made at the end of each fiscal year by an independent, disinterested, certified public accountant and a copy of said report shall be sent promptly to each Unit Owner. In addition, a copy of said report shall be kept on file at the office of the Association and shall be made available for inspection by the Unit Owners and their authorized agents during reasonable business hours. Such reports shall be prepared and disseminated in accordance with the provisions of Section 10(d) of Chapter 183A.

Section 17--Additional Provisions

The Board of Governors shall in addition perform and comply with all the requirements of Massachusetts General Laws Chapter 183A.

ARTICLE V- MEETINGS OF MEMBERS OF THE ASSOCIATION**Section 1-Annual Meetings; Election of Governors**

On the first anniversary following the incorporation of the Association, the Board of Governors shall call the first annual meeting of the Members of the Association. Thereafter, annual meetings shall be held on the anniversary date of such meeting. In each succeeding year, the date of the annual meeting may be changed by proper amendment to the By-Laws of the Association.

Beginning with the twentieth annual meeting of the Members of the Association, unless the right of the Declarant to appoint members of the Board of Governors shall have previously expired as in Section 5 of Article IV provided, all members of the Board of Governors shall be elected by ballot of the Members of the Association in accordance with the provisions of these By-Laws. At the annual meeting, the Members of the Association may also transact such other business of the Association as may properly come before them.

Section 2 - Location of Annual Meetings

Meetings of the Members of the Association shall be held at the principal office of the Association, or at such other suitable place convenient to the Members of the Association as may be designated by the Board of Governors.

Section 3 - Special Meetings

It shall be the duty of the President to call a special meeting of the Members of the Association as directed by the Board of Governors or upon delivery to the Clerk of a petition signed by at least one-third (1/3) in interest of the Members of the Association.

The petition must clearly state the meeting purpose, proposed action, and intended outcome. Recorded minutes of the special meeting, including the Board of Governors resolution to this petition, shall be made available to all Members of the Association. *(Amended by Amendment recorded 10/29/18)*

Section 4 - Notice of Meetings

It shall be the duty of the Clerk to mail or deliver to each Unit Owner of record a notice of each annual

and special meeting, stating the purpose(s), date, time and place thereof at least five (5), but not more than ten (10), days prior to such meeting. Mailing or delivery of a notice in the manner provided in these By-Laws shall be considered notice served. Notice of a meeting need not be given to a Unit Owner if a written waiver thereof executed by such Unit Owner or by his duly authorized attorney or agent before, during or after the meeting, is filed with the records of the meeting.

Section 5 - Quorum

Except as provided otherwise in these By-Laws, the presence in person or by proxy of a majority in interest of the Members of the Association shall constitute a quorum at all meetings of the Members of the Association. If any meeting of the Members of the Association cannot be held because a quorum is not present, a majority in interest of the Members of the Association who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours from the time for which the original meeting was called.

Section 6 - Voting

Each member of the Association, or some person designated by each such Member of the Association to act as proxy on such Member's behalf, who need not be a Unit Owner, shall be entitled to cast the vote appurtenant to the Unit belonging to such Member at any meeting of the Members of the Association, provided the Member is not under suspension. The designation of any proxy shall be made in writing to the Clerk and shall be revocable at any time prior to or at the meeting upon written notice to the Clerk by the Member so designating. Any and all Members of the Association may be present at any meeting of the Members of the Association, either in person or by proxy. Each Member of the Association, including the Declarant, shall be entitled to cast one (1) vote at all meetings of the Members of the Association, which vote shall be weighted by multiplying it by the beneficial interest percentage from time to time appurtenant to the Unit(s) owned by such Member as set forth in the Master Deed; provided, however, that the vote attributable to each Unit must be voted as an entirety and if Owners of a Unit shall be unable to agree on the vote to be cast on any issue, their right to vote on that issue shall be deemed waived. Any Units owned by the Association or Board of Governors on behalf of the Association shall not be entitled to vote.

Section 7 - Majority Defined

As used in the By-Laws of the Association, "majority of Members of the Association" shall mean any aggregation of Members of the Association having more than fifty (50%) percent of the beneficial interest of all Members of the Association, present in person or by proxy, as determined

in accordance with Section 6 of this Article. The vote of a majority of Members of the Association present at a meeting at which a quorum is present shall be binding upon all UnitOwners for all purposes, except when a higher percentage vote is required by law, the Master Deed or these By-Laws.

ARTICLE VI—OFFICERS

Section 1-Principal Officers of the Association

The principal Officers of the Association shall be the President, the Clerk and the Treasurer. The initial Officers shall be those designated in the Articles of Organization. Their Successors shall be elected by the Board of Governors to serve as such Officers. The President and Treasurer shall be members of the Association. The Board of Governors may appoint a Vice President, Assistant Treasurer, Assistant Clerk and such other officers as it deems necessary or appropriate for the conduct of business of the Condominium and may thereafter remove or replace said appointees at any time at the pleasure of the Board of Governors.

Section 2-Selection and Removal of Officers

The Officers shall be elected annually at the first meeting of the Board of Governors following the annual meeting of Members of the Association and shall hold office at the pleasure of the Board of Governors or until their Successors are elected and qualified.

Upon affirmative vote of a majority of the Board of Governors at a regular or special meeting thereof called for that purpose, any Officer may be removed, either with or without cause, and his Successor elected.

Section 3 - President

The President shall be the chief executive officer of the Association. The President shall preside at all meetings of the Members of the Association and of the Board of Governors and shall have all of the general powers and duties incidental to the office of President, including, but not limited to, the power to appoint committees from among the Members of the Association from time to time, as the President may, in such officer's discretion, decide are appropriate to assist in the conduct of the affairs of the Association.

Section 4 - Clerk

The Clerk shall keep the minutes of all meetings of the Members of the Association and of the Board of Governors, shall have charge of such books and papers as the Board of Governors may

direct, and shall perform all duties incidental to the office of the Clerk and as described elsewhere in these By-Laws or the Master Deed.

Section 5 - Treasurer

Unless such duties have been assigned by the Board of Governors to a manager or managing agent, the Treasurer shall have responsibility for the Association funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of required financial data and shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Governors or the Association in such depositories as may from time to time be designated by the Board of Governors and shall perform all duties incidental to the office of Treasurer. No payment voucher shall be paid unless and until approved by the Treasurer or by an authorized manager or managing agent as permitted by Chapter 183A.

Section 6 - Execution of Documents for the Board of Governors

All agreements, contracts, deeds, leases, checks and other instruments of the Association or the Condominium shall be executed by such officer or officers of the Association or by such other person(s) as may be authorized by the Board of Governors.

Section 7 - Compensation of Officers

No officer shall receive any compensation from the Association for acting as such, except for reimbursement of necessary and duly incurred expenses, unless approved in advance by the Unit Owners.

Section 8 - Resignation

Any officer may resign at any time by giving written notice to the Board of Governors, the President or the Clerk. Any such resignation shall take effect at the date of the receipt of such notice or any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to render it effective.

Section 9 - Staggering the Terms of Board of Governors Members

There shall be staggered terms of office for Governors commencing with the 2015 election for the Board of Governors. The system for staggered terms of office shall be implemented as follows: with a five-member Board of Governors the top three people with the highest number of votes, will serve for a term of two (2) years. The remaining elected two members will serve for a one (1)

year term. Beginning with the 2016 Board of Governors election and each succeeding year, all terms will be for two years. (As passed 10/16/2014).

ARTICLE VII--NOTICE

Section 1 - Notice Procedure

Whenever under the provisions of the Master Deed or these By-Laws, notice is required to be given to the Association, the Board of Governors, any Unit Owner or any Unit Mortgagee, it shall not be construed to mean personal notice; but such notice may be given in writing, either by mail, by depositing the same in a post office in a postpaid envelope addressed to the Association, the Board of Governors or such Unit Owner, respectively, at such address as appears on the books of the Association, provided that such mailing is made in The Commonwealth of Massachusetts, or by delivery to said person's address. Notice shall be deemed given if mailed as of the date of mailing or, if otherwise, as of the date of delivery.

Section 2 - Waiver of Notice

Whenever any notice is required to be given under the provisions of the Master Deed, the law or these By-Laws, a written waiver thereof, signed by the person or person entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent thereof.

ARTICLE VIII--OPERATION OF THE CONDOMINIUM

Section 1 - Budget

The Board of Governors shall, from time to time and at least annually, prepare a budget for the Association and, in connection therewith, determine the amount of common expenses of the Association and allocate and assess common expenses among the Unit Owners according to the respective percentages of ownership in the Common Areas and Facilities of the Condominium as set forth in the Master Deed. The common expenses shall include, among other things, the cost of all insurance premiums on all policies of insurance required to be, or which have been, obtained by the Board of Governors, pursuant to the provisions of these By-Laws. The common expenses shall also include the amounts estimated for the operation, care, upkeep and maintenance of the Condominium, including, without limitation, any amount for working capital of the Association, for a general operating reserve, and adequate reserve fund for maintenance, repair and replacement

of those portions of the Common Areas and Facilities which must be replaced on a periodic basis and to make up any deficit in the common expenses of any prior year, and for the operation of the shuttle bus pursuant to the terms of the Modified Special Permit dated January 29, 1985. The common expenses may also include such amounts as may be required for the purchase or lease by the Board of Governors on behalf of all the Unit Owners, of any Unit whose Owner has elected to sell or lease such Unit, or any Unit which is to be sold at foreclosure or other judicial sale, such purchase or lease to be in accordance with the provisions of Article XII hereof.

As a part of the common expenses, the Board of Governors shall include an amount estimated for the operation, care, upkeep, maintenance, repair, replacement and financing of the Sewer Facility as defined in the Master Deed. The common expenses assessed the Unit Owners by the Board of Governors shall be adequate to generate reserves sufficient to fund proper operation and maintenance of the Sewer Facility and to generate a capital replacement fund as deemed adequate and appropriate by the Board of Governors. Any penalty assessed as a result of a violation of any applicable statute, regulation or permit condition with respect to the maintenance, operation repair and replacement of the Sewer Facility shall be a common expense. The Association shall also provide for the establishment and maintenance of an escrow account or other means of security adequate to fund the emergency replacement of the Facility.

In addition, a working capital fund shall be established for the initial months of the Condominium operation equal to at least two (2) months' estimated common area charges for each Unit, which fund shall be collected and transferred to the Association at the time of delivery of the first Unit Deed of each Unit, and which shall be maintained in a segregated account for the use and benefit

of the Association. The contribution of the Association to such fund for each unsold Unit shall be paid to the Association by the Declarant or Successor Declarant exercising the Development Rights as to each Phase upon the completion of all Units within said Phase. The purpose of the working capital fund is to ensure that there will be cash available to meet unforeseen expenditures or to acquire additional equipment or services deemed necessary or deemed desirable by the Board of Governors. Amounts paid into the fund shall not be considered advance payment of regular assessments. When Declarant transfers control of the Association to the Unit Owners, the working capital fund shall be transferred to the Association for deposit to a segregated fund.

In addition to the foregoing, any expense incurred by the Association as a result of a Unit Owner's failure to abide by the requirements of Chapter 183A, the Master Deed or these By- Laws,

restrictions, Rules and Regulations or by the misconduct of any Unit Owner or the family members, tenants or invitees of a Unit Owner may be assessed exclusively against such Unit Owner.

Further in order to fund, maintain and replenish the working capital fund described herein, all Unit purchasers, or any individual(s), trust or other entity acquiring legal record title to any unit, or any interest in a Unit, at any time, shall be responsible for the payment of a non-refundable fee equal to \$2,500 at the time of the closing on the Unit. Such amount shall not be considered an advance on the payment of common charges but, rather, a separate cost, and shall be due on the date of the unit conveyance. Notwithstanding the foregoing, the conveyance by any owner of his or her unit, or any interest therein, to a spouse, estate, or revocable or irrevocable trust for estate planning purposes shall not be deemed a conveyance requiring payment of the amount referenced above. The amount of this contribution to the working capital fund may be adjusted, no more often than annually, by a vote of the Board of Governors, to reflect the cost of inflation. *(Amended by Amendment recorded 12/08/21).*

The Board of Governors shall advise all Unit Owners promptly in writing of the amount of the common charges payable by each of them, respectively, as determined by the Board of Governors and shall furnish copies of each budget on which such charges are based to all Unit Owners and any Unit Mortgagee which has requested the same in accordance with Chapter 183A. A separate statement will be provided each Unit Owner by the Association as to charges due for services provided by the Association for or on behalf of such Unit Owner or expenses incurred due to the actions of such Unit Owner or the family members, tenants and invitees of such Unit Owner as aforesaid.

Section 2 - Payment of Common Charges

All Unit Owners shall pay the common charges assessed by the Board of Governors, pursuant to the provisions of these By-Laws, on the first day of each month in advance and the Association shall have a lien in accordance with Chapter 183A, Section 6, on each Unit for any common expense assessment levied against that Unit from the time the assessment becomes due. Each assessment against a Unit shall also be the personal obligation of the Unit Owner at the time the assessment fell due.

Subject to the provisions of Section 3 of this Article, a purchaser of a Unit shall not be liable for the payment of common charges assessed and unpaid against such Unit prior to the acquisition by such purchaser of such Unit unless assumed by such purchaser or required by applicable law, but the purchaser of any Unit, including without limitation, a Mortgagee or other purchaser of a Unit

at a foreclosure sale shall be subject to, but not personally liable for, a lien for unpaid common charges assessed prior to the foreclosure sale, except as otherwise provided in Paragraph 16 of the Master Deed and in Chapter 183A, Section 6, with respect to first mortgages. No Unit Owner shall be liable for the payment of any part of the common charges against the Unit belonging to such Owner assessed subsequent to a sale, transfer or other conveyance by such Owner, duly filed in the Barnstable County District Registry of the Land Court, including conveyance to the Association with the written consent and acceptance of the Association.

Notwithstanding any language contained herein, from the date of recording of this amendment, the Board may in its sole discretion determine how and in what manner payment of all common charges will be made to Southport on Cape Cod Condominium Association, Inc. This includes, but is not limited to, Automatic Withdrawal (ACH) or other means of electronic payment. All current owners shall be grandfathered regarding their obligation to make payments pursuant to the authorized provisions under the current Master Deed and By-Laws. *(Amended by Amendment recorded 10/29/18).*

Section 3 - Default

In the event of default by any Unit Owner in the payment of common charges, such unit owner shall be obligated to pay late fees and interest established in policy by the Board of Governors, together with all expenses, including reasonable attorney's fees, incurred by the Board of Governors in collecting on the default *(Amended by Amendment recorded 11/27/2019).*

The Board of Governors shall seek to recover such common charges, together with *late fees (Amended by Amendment recorded 11/27/2019)*, interest and expenses, including reasonable attorney's fees, from Unit Owners who fail to pay such assessment by action brought against such Unit Owner within sixty (60) days after the date such unpaid charges became due (or within such shorter period of time as may be determined by the Board of Governors) or by foreclosure of the lien securing such charges under Chapter 183A (including the taking of a Deed in lieu of foreclosure), or by such other action, including but not limited to the collecting of rents from the tenant of any such Unit and application of the same against amounts owed by the Owner, as the Board of Governors may deem reasonably required under the circumstances. Any unpaid assessment of common expenses constituting a lien on the Unit of the Unit Owner together with the Unit's undivided interest in the Common Areas and Facilities shall be subject to enforcement as provided in Chapter 183A.

Section 4 - Power to Suspend Rights of Membership

In the event of default by any Unit Owner in the payment of the common charges or any other amounts owed to the Association, the Board of Governors shall have the power to suspend the Unit Owner's membership rights and privileges in the Association, including the right to serve on the Board of Governors, but such suspension shall remain in effect only until such amounts as are owed are paid.

Section 5 - Foreclosure of Liens

In any action brought by the Board of Governors to foreclose a lien on a Unit because of unpaid common charges, the Unit Owner shall be required to pay in addition to all other charges and assessments a reasonable rental for the use and occupation of this Unit, if such use continues after the foreclosure, and the plaintiff in such foreclosure action, in addition to all other rights and remedies to which it may be entitled, shall be entitled to the appointment of a receiver to collect the same. The Board of Governors, acting on behalf of the Association, shall have the power to purchase such Unit at the foreclosure sale and to acquire, hold, lease, convey, mortgage (but not to vote the percentage interest appurtenant thereto) and otherwise deal with the same. A suit to recover a money judgment for unpaid common charges shall be maintainable without foreclosing or waiving the lien securing the same.

Section 6 - Statement of Unpaid Common Charges and Priority of Liens

The Board of Governors shall promptly provide to any Unit Owner requesting the same in writing, a written statement of all unpaid common charges due from such Owner in form suitable for recording and the same, when recorded with Barnstable Registry District of the Land Court, shall operate to discharge the Unit from any other charges not included in such statement then unpaid.

- a. To the extent permitted by applicable law, any lien of the Association for common expense assessment or other charges becoming payable on or after the date of recordation of the first mortgage on any Unit shall be subordinate to said mortgage. In addition, any fees, late charges, fines, or interest which may be levied by the Association in connection with unpaid assessments shall be subordinate to said mortgage.
- b. A lien for common expense assessments shall not be affected by any sale or transfer of a Unit, except that a sale or transfer pursuant to a foreclosure of a first mortgage shall extinguish a subordinate lien for assessments which became payable prior to such sale or transfer, except as to such sale or transfer except as otherwise set forth in Chapter 183A, Section 6. Any such delinquent assessments which are so extinguished shall be reallocated

and assessed to all Unit estates as a common expense. Any such sale or transfer pursuant to a foreclosure shall not relieve the purchaser or transferee of a Unit from liability for, not the Unit from the lien of, any assessment made thereafter.

Section 7- Maintenance

- a. All maintenance and replacement of and repairs to any Unit, whether structural or non-structural, ordinary or extraordinary, and to the doors and windows, electrical, plumbing, heating, air conditioning, water and sewer Facilities and fixtures belonging to a Unit Owner and not part of the Common Areas and Facilities or the areas concerning which easements have been conveyed to the Association, shall be done by the Unit Owner and at the Unit Owner's expense, except as otherwise specifically provided herein; provided that all repair, replacement, painting or decorating of the exterior of any Unit, including but not limited to trim, clapboard, shingles, roofs, brickwork, terraces, patios, garage exteriors, porches, decks, balconies shall be done by the Association, or its appointees, as a common charge, except to the extent that the same are necessitated by the negligence, misuse or neglect of a Unit Owner or the family, tenants or guests of a Unit Owner, or includes maintenance of any exterior improvements as provided in the Master Deed, in which case such expense shall be charged to such Unit Owner in the same manner as a common charge and enforceable in the same manner as a common charge.
- b. All maintenance, repair and replacements to the Common Areas and Facilities, including the Sewer Facility, or to those Areas concerning which easements have been conveyed to the Association shall be done by the Board of Governors, or its appointee, and shall be included as a common expense of the Association, except to the extent that the same are necessitated by the negligence, misuse or neglect of a Unit Owner or by the family members, tenants or invitees of a Unit Owner, in which case such expense shall be charged to such Unit Owner in the same manner as a common charge and enforceable in the same manner as a common charge.

Section 8 - Restrictions

- a. No nuisances shall be allowed in the Condominium, nor shall any use or practice be allowed which is a source of annoyance to its residents or which interferes with the peaceful enjoyment of the Condominium.

- b. No immoral, improper, offensive or unlawful use shall be made of the Condominium or any part thereof and all laws, zoning by-laws, ordinances and regulations of all governmental bodies having jurisdiction thereover shall be observed.
- c. No signs, plaques, or communication devices of any description shall be placed on the exterior of any Unit or any common area or facility by a Unit Owner or his agent without first obtaining written approval from the Board of Governors. (as passed 10/16/2014)
- d. In order to maintain, support and implement the fire and safety programs and services of all units in the Condominium, each unit owner without exception are required at all times to have the unit's telephone and electric system operational.

Section 9 - Improvement Restrictions

- a. No improvements, additions, alterations, or other work which in any way alters the exterior appearance or structure of any Unit from its natural or improved state existing on the date such Unit was first conveyed by the Declarant shall be made or done, except as provided in accordance with Paragraph 8 of the Master Deed and herein.
- b. The Board Of Governors may authorize that exclusive use of one or more Common Areas be assigned to one or more Units for such time and on such conditions as the Board of Governors may determine subject to the provisions of Massachusetts General Laws Chapter 183A, which conditions may, without limitation, include a requirement that the Unit Owners so benefitted pay, as additional common expenses, such costs of said Common Areas as the Board of Governors from time to time may determine. The failure of the Board of Governors granting said exclusive use to require payment of any such costs as a condition of such exclusive use shall not preclude those Board of Governors, or any Successor Governors, from imposing reasonable additional common expenses for the exclusive use of said Common Areas. Unless otherwise provided in writing signed by a majority of the Board of Governors and recorded with the Registry of Deeds, such rights of exclusive use of Common Areas shall be personal to the Unit Owners to whom granted and shall terminate when such Unit Owners no longer own the Units so benefitted.
- c. No improvements, modifications, alterations or additions to any Unit, including but not limited to the addition of bathrooms, the effect of which is likely to increase the amount of ground water discharge, shall be permitted without the prior written assent of the Board of Governors, who may withhold, qualify or condition such permission in its sole discretion, and may require such information, tests and test results as the Board of Governors may deem

necessary in order to render its decision, provided, however, that no such exercise by the Board of Governors will be contrary to or inconsistent with any general, special or supplemental condition in the permit issued by the Division of Water Pollution Control, DEP covering the Condominium. Nothing herein contained shall prevent or prohibit the replacement of such appliance with similar appliances or the normal use of such Facilities installed by the Declarant in the original construction of the Unit.

Section 10 - Cost Allotment of Improvements

- a. If fifty (50%) percent or more, but less than seventy-five (75%) percent of the Unit Owners agree to make an improvement to the Common Areas and Facilities or to areas concerning which an easement has been granted to the Association, the cost of such improvement shall be borne by the Unit Owners so agreeing.
- b. Seventy-five (75%) percent or more of the Unit Owners may agree to make an improvement to the Common Areas and Facilities or to Areas concerning which an easement has been granted to the Association and assess the cost thereof as a common expense, but if such improvement shall cost in excess of ten (10%) percent of the then total value of the Condominium, any Unit Owner not so agreeing may apply to the Barnstable Superior Court, on such notice to the Board of Governors as the court shall direct, for an order directing the purchase of the Unit(s) belonging to such Owner by the Association at fair market value thereof as approved by the Court. The cost of any such purchase shall be a common expense.
- c. All improvements undertaken pursuant to this Section shall be subject to the prior written approval of the Board of Governors.

Section 11 - Right of Access

Each Unit Owner shall grant access to the Unit or Units belonging to such Owner to the Association and/or any other person authorized by the Board of Governors for the purpose of making inspections or for the purpose of correcting any conditions originating in such Unit and threatening another Unit or a common area or facility, or for the purpose of performing installations, alterations, or repairs to the parts of the Condominium over which such person has control and/or responsibility for maintenance. Requests for such access must be made in advance and entry must be at a time reasonably convenient to the Unit Owner. In an emergency, such right of entry shall be immediate, whether the Unit Owner is present or not.

Section 12 - Rules and Regulations of the Association

The use of the Units and the Common Areas and Facilities in the Condominium shall be subject to the Rules and Regulations from time to time adopted by the Board of Governors. Such Rules and Regulations shall be called the Condominium Rules and Regulations and copies of such Rules and Regulations shall be made available to each Unit Owner prior to their effective date. Any such Rules and Regulations related to the Sewer Facility adopted by the Board of Governors shall require the prior written approval of the Division of Water Pollution Control, DEP.

Section 13- Right of Action

The Board of Governors, on behalf of the Association and any aggrieved Unit Owner, shall have an appropriate right of action against any Unit Owner for failure to comply with the provisions of the Master Deed, By-Laws and Rules and Regulations of the Condominium. Unit Owners shall have similar rights of action against the Board of Governors.

Section 14 - Ingress and Egress of Unit Owners

Each Unit Owner shall have a right of ingress and egress to the Unit owned by such Owner, which right shall be perpetual and appurtenant to the Unit owned.

ARTICLE IX—INSURANCE

The Board of Governors and the Unit Owners shall obtain and maintain the following Insurance policies:
(Amended by Amendment recorded 11/27/2019)

A. Casualty Insurance. The Governors shall obtain and maintain, to the extent reasonably obtainable at costs deemed reasonable to the Governors in their sole discretion and permitted by applicable law, so-called master policies of insurance providing fire-with-extended coverage and so-called "all risk" coverage Insurance, insuring the buildings including, without limitation, the Common Areas and Facilities, all of the Units with all fixtures, additions, alterations and Improvements thereof, all heating and cooling equipment and other service machinery, apparatus, equipment and installations comprised in the Common Areas and Facilities, and also all such portions normally deemed to constitute part of the buildings and customarily covered by such insurance, but not including any furniture, furnishings, or household and personal property belonging to and owned by individual Unit Owners or tenants, in an amount equal to not less than one hundred percent (100%) of the full replacement value thereof (exclusive of foundations, land and other items normally excluded therefrom) without deduction or depreciation, Coverage may be subject to a reasonable deductible as

the Governors may determine, from time to time, and shall include Agreed Amount, Inflation Guard (if reasonably obtainable), Ordinance or Law coverage Including Increased cost of construction and demolition (if applicable), Replacement Cost Endorsements and boiler and machinery Insurance In such limits as the Governors may, from time to time, determine. In determining full replacement value, the Governors may reasonably rely upon the advice of the insurer or other commercially reasonable appraisal and such replacement value should be updated periodically but no less than every three (3) years. The name of the insured under such policy shall be stated in form, substance and effect similar to the following: "Governors of the Southport on Cape Cod Condominium Association, Inc. for use and benefit of the Unit Owners of The Southport on Cape Cod Condominium Association, Inc, and their mortgagees as their Interests may appear." Such insurance shall contain the standard mortgagee clause and shall name the Governors as Insurance Trustees (as defined herein) for the use and benefit of all Unit Owners and their mortgagees as their interest may appear, with losses payable to and adjusted by the Governors as Insurance Trustees in accordance with the provisions of these By-Laws. The Governors may insure against such other hazards or risks of casualty as the Governors from time to time in their discretion shall determine to be appropriate, including, but not limited to earthquake and flood insurance.

B. Liability Insurance. The Governors shall obtain and maintain, to the extent obtainable and/or applicable, master policies of insurance with respect to the Common Areas and Facilities for the benefit and protection of the Trust and all Unit Owners for: (i) comprehensive general liability Insurance in such limits the Governors may, from time to time, determine but in no case less than \$1,000,000.00 per occurrence/\$2,000,000.00 in the general aggregate and (ii) an excess/umbrella liability policy with a limit of no less than \$2,000,000.00 per occurrence and general aggregate (to apply excess of general liability, automobile liability and employers liability coverages), covering the Trust, the Governors, the property manager, if any, and each Unit Owner with respect to liability arising out of ownership, maintenance or repair of the Common Areas and Facilities of the Condominium, such insurance containing a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a Condominium Unit Owner because of negligent acts of the Trust, the Governors, the Unit Owner or other Unit Owners, and other provisions commonly referred to as a "Special Condominium Endorsement" or its equivalent; (iii) workmen's compensation and employers liability insurance and non-owned automobile liability insurance with respects to employees of the Condominium, if any; and (v) such other liability insurance as the Governors may from time to time deem appropriate and desirable.

C. Fidelity Coverage. The Governors shall obtain fidelity coverage against dishonest acts on the part of the Governors, any property manager, if any, employees or volunteers responsible for handling funds belonging to

the Trust or administered by the Governors. This fidelity insurance shall name the Governors of The Southport on Cape Cod Condominium Association, Inc., as the named insured and shall be written in an amount equal to the maximum amount that will be in custody of the Trust at any one time, but in no event less than three (3) months Common Expenses plus all reserves. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers.

D. Directors and Officers Liability Insurance. The Governors may obtain Directors' and Officers' Liability Insurance in such amounts and upon such terms as they deem appropriate.

E. FHLMC and FANNIE MAE Insurance Requirements. The Governors may rely upon the advice of its insurance agent in determining what coverages and in what amounts those coverages should be maintained by the Trust.

F. Unit Owners' Insurance. Unit Owners shall carry insurance for their own benefit insuring their furniture, fixtures, furnishings and other personal property located within their respective Units or its appurtenances, and for such as is not covered by the Condominium master policies - particularly any deductible; provided that all such policies shall contain waivers of subrogation and further provided that the liability of the carriers Issuing insurance obtained by the Governors shall not be affected or diminished by reason of any such additional insurance carried by any Unit Owner. Unit Owners shall in all events maintain liability insurance covering damage to the Property In such reasonable amounts as the Governors may determine and, upon request, provide evidence thereof to the Governors.

G. Terms and Conditions of Policies. Policies for casualty Insurance, and to the extent applicable, such other policies of Insurance, shall provide: (i) that the insurance company waive any right of subrogation against the Governors, their agents and employees, and the Unit Owners, their respective employees, agents, tenants and guests to the extent they are not specifically obligated hereunder; (ii) that the insurance shall not be prejudiced by any act or neglect of any Unit Owners or occupants or any other person or firm (including employees and agents of the Governors) when such act of neglect is not within the control of the Governors (or Unit Owners collectively) or by failure of the Governors (or Unit Owners collectively) to comply with any warranty or condition with regard to any portion of the premises over which the Governors (or Unit Owners collectively) have no control; (iii) that such policies may not be canceled without at least twenty (20) days' prior written notice to all Unit Owners and mortgagees of Units to whom certificates of insurance have been issued; (iv) that recovery thereunder shall not be affected on account of the availability of proceeds under any policies obtained by individual Unit Owners covering their Units; and (v) if obtainable, that the company shall waive any right it may

have under the policy to repair or restore damage should the Unit Owners elect to terminate the Condominium because of such damage, such insurance policies may provide for a deductible for each coverage thereof as determined by the Governors in their absolute discretion. In the event of any loss which relates in part to insurable portions of a Unit, or Units, and/or in part to the Common Elements, the Governors shall apportion the deductible amount directly proportional to the amount of such loss related to such Unit or Units, and/or the amount of the loss related to the Common Areas and Facilities. Where such loss is solely to a Unit, the deductible amount shall become solely by the Unit Owner thereof. Where such loss is solely to the Common Elements, such shall become from the common funds, unless such loss is determined by the Board to have been caused by the negligence, recklessness or willful misconduct of a Unit Owner(s), in which case the Board may assess such amounts to such Unit Owner(s).

H. Insurance Appraisal. The Governors may obtain an appraisal of the full replacement value of the property to be insured in accordance with the foregoing provisions of this Section, without deduction for depreciation, for the purpose of determining the amount of Insurance to be maintained pursuant to this Section.

I. Governors as Insurance Trustees. The Governors: (i) shall have exclusive authority to negotiate all losses as herein provided for, (ii) shall collect and receive all loss insurance proceeds, and (iii) shall hold, use, apply and disburse the same in accordance with the applicable provisions of these By-Laws for the benefit of the Unit Owners and their respective mortgagees. With respect to losses which affect portions or elements covered by such Insurance or more than one Unit and/or the Common Elements to different extents, the proceeds relating thereto shall be used, applied and disbursed by the Governors in their judgment in a fair and equitable manner, primarily based upon the relative losses.

J. Authorized Insurance Representative. Notwithstanding any of the foregoing provisions and requirements to the contrary relating to physical damage or liability insurance, there may be named as an insured, on behalf of the Governors, the Governors authorized representative, including any Governor, with whom such Governors may enter into any insurance trust agreement or any successor to such Governor (each of whom shall be referred to herein as the "Insurance Trustee"), who shall have exclusive authority to negotiate losses under any policy providing such physical damage or public liability insurance. Each Unit Owner appoints the Governors, or any Insurance Trustee or substitute Insurance Trustee designated by the Governors, as his/her attorney-in-fact for the purpose of purchasing, maintaining and administering such insurance, including without limitation the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purpose.

K. Notification of Mortgagees. The Governors, on behalf of the organization of Unit Owners, shall, when requested by mortgagees of Units, give written notice to such mortgagees of any such loss to the Common Areas and Facilities, or to the Unit mortgaged, as the mortgagee requests.

L. Certificates of Insurance. Certificates of insurance with proper mortgage endorsements, when requested, shall be issued to Unit Owners or their designees. The Governors may charge a reasonable fee for obtaining and issuing such certificates.

ARTICLE X—DAMAGE TO OR DESTRUCTION OF PROPERTY

Section 1 - Duty to Repair or Restore

Any portion of the Condominium, including the buildings erected within the Condominium, damaged or destroyed shall be repaired or restored promptly by the Association, or by the Owner of the affected Unit as provided in this Article, subject to the provisions of Chapter 183A, Section 17.

Section 2 - Estimate of Cost

Promptly after damage to or destruction of some portion of the Condominium and thereafter as often as it deems advisable, the Board of Governors shall obtain reliable and detailed estimates of the cost of repair or restoration. If such cost, in the opinion of the Board of Governors, may exceed five thousand (\$5,000.00) dollars, the Board of Governors may retain the services of an architect, engineer or construction consultant to assist in the determination of such estimates and in the supervision of repair and restoration.

Section 3 - Collection of Construction Funds

The funds required for repair and restoration ("Construction Funds") shall be obtained and held as hereinafter provided. Construction Funds may consist of insurance proceeds, proceeds of assessments against Unit Owners, payments of Unit Owners for damage to or destruction of improvements as hereinafter provided, and any other funds received on account of or arising out of injury or damage to the Condominium.

- a. **Insurance Proceeds**—The Board of Governors shall adjust losses under physical damage insurance policies of the Association. If the total loss or damage to the Condominium is in excess of twenty-five thousand (\$25,000.00) dollars, insurance proceeds shall be payable to and disbursed by the Insurance Trustee as defined in Section 8 of this Article.

- b. Assessments Against Owners--If the insurance proceeds are insufficient to effect the necessary repair or restoration of the Common Areas and Facilities, such deficiency shall be charged against all Unit Owners as a common expense. The proceeds of assessments for such common expenses shall be paid by the Board of Governors to and disbursed by the Insurance Trustee, if the total loss or damage to the Condominium is in excess of twenty-five thousand (\$25,000.00) dollars.
- c. Payments by Unit Owners--The cost of damage or destruction to those portions of any Unit which are required under Section 7 of Article VIII of these By-Laws to be maintained and replaced by the Unit Owner, shall be the responsibility of the Unit Owner except to the extent covered by insurance policies of the Association. If the repair and restoration work is to be performed by the Association in accordance with Section 6 of this Article, such cost, as determined by the Board of Governors in accordance with Section 2 above, shall be paid by such Unit Owner to and shall be disbursed by the Insurance Trustee if the total loss or damage to the Condominium is in excess of twenty-five thousand (\$25,000) dollars and otherwise shall be paid to and disbursed by the Board of Governors, except as provided in Section 5 of this Article.
- d. Payments by Others--Any other funds received by the Board of Governors on account of or arising out of injury or damage to the Condominium, shall be paid to and disbursed by the Insurance Trustee, if the total loss or damage to the Condominium is in excess of twenty-five thousand (\$25,000.00) dollars; otherwise the funds shall be paid to and disbursed by the Board of Governors.
- e. Construction Funds Retained by Board of Governors--Any other provision of this Article to the contrary notwithstanding, the Board of Governors may retain and administer up to a total of twenty-five thousand (\$25,000) dollars of Construction Funds, from whatever source derived, for the purpose of repair and restoration.

Section 4 - Plans and Specification

Any repair or restoration must be either:

- a. Substantially in accordance with the architectural and engineering plans and specifications for the original buildings and shall also include such improvements and fixtures as may have been installed by any particular Unit Owner and as to which payment for such repair or reconstruction is forthcoming; or

- b. According to plans and specifications approved by the Board of Governors and by a majority in beneficial interest of the Unit Owners and holders of first mortgages encumbering fifty-one (51%) percent of the Units subject to mortgages, which approvals shall not be unreasonably withheld.

Section 5 - Performance of Work and Payment

If there is damage to or destruction of all or part of the Condominium for which the cost of repair and restoration, estimated by the Board of Governors as hereinabove provided, exceeds five thousand (\$5,000.00) dollars or if such damage or destruction affects a portion of the Condominium which is otherwise the responsibility of the Board of Governors to repair and restore, the repair or restoration of the property shall be effected by the Association to the extent that Construction Funds as described in Subsection a. of this Section are available and provided that the Association shall not be required to perform repair or restoration to any Unit whose Owner has not made the payments required from such Owner under Subsection 1.a. Repair and Restoration of individual Units which is not the responsibility of the Association as hereinabove provided shall be promptly performed by and at the cost of the Owners of the Units affected. To the extent that the Association has received any insurance proceeds or other Construction Funds attributable to repair and restoration work to be performed by a Unit Owner, such funds shall be disbursed to such Owner or to the persons performing such work on terms reasonably satisfactory to the Association.

Section 6 - Disbursements of Construction Funds

- a. By the Association--Construction Funds held by the Association shall be disbursed by the Association in accordance with the terms of this Section 6 and otherwise on terms and conditions satisfactory to the Board of Governors.
- b. By The Insurance Trustee--The Insurance Trustee shall deduct from the Construction Funds its actual costs, expenses and a reasonable fee agreed upon by the Board of Governors for the performance of its duties and shall disburse the balance in the following manner:
 - i) To the Board of Governors--twenty-five thousand (\$25,000.00) dollars shall be disbursed immediately to the Board of Governors to be disbursed in accordance with the foregoing Subsection 6.a. of this Article;
 - ii) For Payment for Repair and Restoration--The Insurance Trustee shall apply the

- balance of Construction Funds to pay directly to the Association or to reimburse the Association, as the case may be, for the payment of the cost of repair or restoration of any damaged Unit and any damaged portions of the Common Areas and Facilities, including the cost of temporary repairs for the protection of such Units and Common Areas and Facilities pending the completion of permanent repairs and restoration, upon written request of the Association, in accordance with Subsection 7.a. of this Article, and upon presentation of an architect's certificate stating that the work represented by any such payment has been completed satisfactorily.
- c. Contributions by Owners--The Association shall maintain a separate account as to each Unit with respect to payments by a Unit Owner pursuant to Subsection 3.c. of this Article, and expenditures of such payments. General expenses of administration, such as deductions by the Insurance Trustee for its costs, expenses and fees, shall be charges against the Association's Construction Funds not derived from Unit Owner payments and against Unit Owners' payments, in proportion to the amounts of each. All portions of payments by Unit Owners under Subsection 3.c. of this Article not expended as herein provided shall be refunded to the Unit Owners and the Mortgagees of the Units as their interest may appear.
 - d. Surplus Funds--If, after payment of all repairs and restoration and the refund of any excess payments by Unit Owners pursuant to Subsection 6.c. of this Article, there remains any surplus funds such funds shall be paid to the Unit Owners in proportion to their contributions resulting from assessments levied against them pursuant to Subsection 3.b. of this Article; provided, however, that no Unit Owner shall receive a sum greater than that actually contributed by such Owner. Any surplus remaining after such payments shall be paid to the Association and shall be part of its general income.
 - e. Determination Not to Repair or Restore--Subject to the provisions of Chapter 183A, Section 17, if there is destruction of the Condominium exceeding ten (10%) percent of its value prior to the casualty and seventy-five (75%) percent in interest of the Unit Owners do not agree to proceed with repair or restoration within 120 days after the date of casualty, any balance of construction funds, after the refund of any payments by Unit Owners, pursuant to Subsections 6.c. and 6.d. of this Article, shall be disbursed in accordance with the proportion of

beneficial interest appurtenant to the Unit(s) owned by each Unit Owner bears to the total percentage of beneficial interest held by Unit Owners in the Condominium, excepting for those Units owned by the Association. In the event of dispute as to the percentage of destruction, or the allocation of disbursement hereunder, the same shall be submitted to arbitration in accordance with the rules of the American Arbitration Association.

Section 7–Certificates

The Insurance Trustee may rely on the following certifications:

- a. By the Board of Governors--The Board of Governors shall certify to the Insurance Trustee, in writing, as to the following matters:
 - i) whether or not damaged or destroyed property is to be repaired or restored;
 - ii) whether or not, in the opinion of the Board of Governors, the total loss or damage to the Condominium may exceed twenty-five thousand (\$25,000.00) dollars;
 - iii) the amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.
- b. By Attorneys--The Board of Governors shall furnish the Insurance Trustee, in the event that any payments are to be made to a Unit Owner or Mortgagee(s), with an Attorney's Certificate of Title based upon a search of the land records from the date of the recording of the original Master Deed, stating the name of the Unit Owner and the Mortgagee(s).

Section 8 - Insurance Trustee to Administer Insurance Proceeds In the Event of Loss

The Board of Governors Shall Act as the Insurance Trustees hereunder. *(Amended by Amendment recorded 11/27/2019).*

ARTICLE XI-MORTGAGES

Section 1 - Notice to Board of Governors

A Unit Owner who mortgages his Unit shall notify the Board of Governors of the name and address of the Mortgagee, and such notice may be given by the Mortgagee. The Board of Governors shall maintain a current list of such information and a mortgagee shall remain on such list until the Board of Governors receives written notice from such Mortgagee to the contrary or a copy of a discharge by the Mortgagee.

Section 2-Listed Mortgagee

As used in these By-Laws, "listed mortgagee" shall mean a Lender holding a first mortgage of record

on a Unit of which the Unit Owner or Mortgagee of affected has given the notice required in Section 1 of this Article and, with respect to any rights and powers provided to mortgagees in Chapter 183A on condition that such Mortgagees give notice to the Association of their desire to be notified in connection with the exercise of such rights and powers, such Mortgagee who has given the notice required under Chapter 183A. Such Mortgagee shall remain a listed Mortgagee until the Board of Governors receives written notice from the Mortgagee of withdrawal of the listing or the mortgage is discharged of record.

Section 3 - Unpaid Common Expenses

The Board of Governors, whenever so requested in writing by a mortgagee of a Unit, shall promptly report any then unpaid common charges due from, or any violation of the provisions of the Master Deed or these By-Laws by the Unit Owner of the mortgaged Unit which has not been cured within sixty (60) days.

Section 4 - Notice of Default

The Board of Governors, when giving notice to a Unit Owner of a default for nonpayment of common expenses or any other default or violation, shall send a copy of such notice to each Mortgagee of the Unit whose name and address has theretofore been furnished to the Board of Governors.

Section 5 - Examination of Books

Each Mortgagee of a Unit shall be permitted to examine the books, accounts and records of the Association at reasonable times on business days in accordance with the provisions of Chapter 183A.

Section 6 - Notice of Loss

The Board of Governors shall give each first Mortgagee of which they shall have a record, pursuant to Section 1 of this Article, notice whenever there is (a) damage to a mortgaged Unit in excess of one thousand (\$1,000.00) dollars (notice to the Mortgagee of the damaged Unit) or (b) damage to Common Areas and Facilities in excess of ten thousand (\$10,000.00) dollars (notice to all Mortgagees).

ARTICLE XII--SALE OF UNITS

Section 1 - Appurtenant Interest

No Unit Owner shall execute any deed, mortgage or other instrument conveying or mortgaging title to his Unit, without including therein the appurtenant interest. For the purposes of this Section, "appurtenant interest" shall include, in addition to those appurtenances described in the

Master Deed, and those in the By-Laws of the Association, the following:

- a. Such Unit Owner's undivided interest in the Common Areas and Facilities and the rights in Areas concerning which easements have been conveyed to the Association.
- b. Membership in the Association.
- c. The interest of such Unit Owner in any Unit(s) theretofore acquired by the Association, or the proceeds of the sale or lease thereof, if any.
- d. The interest of such Unit Owner in any other assets of the Association.

Any deed, mortgage or other instrument purporting to affect a Unit shall be deemed and taken to include the appurtenant interest, whether or not such interests are specifically included therein. No part of the appurtenant interest of any Unit may be sold, transferred or otherwise disposed of, except as part of a sale, transfer or other disposition of the Unit to which such interest is appurtenant or as part of a sale, transfer or other disposition of such part of the appurtenant interest of all Units in the Condominium.

Section 2 - Waiver of Rights of Partition

In the event a Unit shall be acquired by the Association, the Unit Owners shall be deemed to have waived all rights of partition with respect to such Unit.

ARTICLE XIII--AMENDMENTS TO THE BY-LAWS OF THE ASSOCIATION

The By-Laws of the Association may be modified or amended by the affirmative vote of sixty-six and two-thirds (66-2/3%) percent (or any larger percentage, if such modification or amendment affects a provision requiring a larger percentage under these By-Laws, the Master Deed or Chapter 183A) in beneficial interest of all Members of the Association, present in person or by proxy at a meeting of such Members duly called and held for such purpose.

No amendment by either the Declarant or Unit Owners shall be contrary to or inconsistent with any provision in the Master Deed or By-Laws related to the operation, maintenance, repair, replacement or financing of the Sewer Facility, the assessment of related common expenses, and any provisions therein which require the prior written approval of the Division of Water Pollution Control, DEQE. Notwithstanding the foregoing, the Declarant may, without the assent of the

Unit Owners or their Mortgagees, amend the By-Laws, in the event such Amendment is necessary to bring such By-Laws into compliance with the existing or later provisions of Chapter 183A, or

the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA) or Massachusetts Department of Environmental Protection (including all related agencies) or HOPA.

ARTICLE XIV--CONFLICTS

In case any of these By-Laws are in conflict with the provisions of any statute, the Articles of the Association or the Master Deed, the provisions of said statute, Articles of the Association or Master Deed, as the case may be, shall control.

ARTICLE XV—MISCELLANEOUS

Section 1 - Invalidity

The invalidity of any part of these By-Laws shall not impair or affect in any manner the validity, enforceability, or effect of the balance of these By-Laws.

Section 2 - Captions

The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope of these By-Laws or the intent of any provision thereof.

Section 3 - Gender

Gender shall in the By-Laws of the Association not only refer to the masculine but also to the feminine and neuter gender, and the use of the singular shall be deemed to include the plural and vice versa, whenever the context so required.

Section 4 - Waiver

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