DECLARATION OF CONDOMINIUM
BLUE HEAVEN CONDOMINIUM

This Declaration is made by **LEAH LEDOUX**, of Scarborough, Maine (hereinafter collectively "Declarant"), as the owner in fee simple of the real estate described herein.

1. **PROPERTY:** Declarant hereby submits the real estate situated in the County of Cumberland, Town of Scarborough and State of Maine, hereinafter described in Exhibit A attached hereto and made a part hereof, together with the buildings and improvements already thereon and those buildings and improvements to be put thereon in the future (the "Building") as described more particularly hereinafter (collectively the "Property") to the provisions of the Chapter 31 of Title 33 Maine Revised Statutes Annotated, as it may be amended, known as the Maine Condominium Act (the "Act"). The Property is subject to and shall have the benefit of all easements, rights of way and matters affecting title described or referred to in Exhibit A, or in the survey to which reference is hereinafter made.

The plat of the land submitted to the provisions of the Act entitled "Condominium Plat, Blue Heaven Condominium" Scarborough, Maine, prepared by St. Clair Associates, and dated July 2, 2020, is recorded in the Cumberland County Registry of Deeds in Plan Book 220, Page 242 (the "Plat"), reduced copies of which are attached hereto as Exhibit D.

2. **CREATION OF UNITS:** Declarant hereby creates two (2) units (each individually the "Unit" and collectively the "Units"). The location, boundaries and identifying number of the Units are shown on the Plat referred to in Section 1 hereof. Declarant reserves the right to create no additional Units for a maximum total of up to two (2) Units. The Units shall be identified as Unit A (the Unit closer to the Street) and Unit B (the Unit to the rear).

3. **LOCATION AND DIMENTIONS OF BUILDING AND UNITS:**

(a) **DESCRIPTION OF UNITS:** "Unit" means a part of the Property designated for separate ownership or occupancy may have Limited Common Elements and Common Elements. For each Unit created from time to time pursuant to this Declaration, the identification number and approximate area are shown on the Plat, as amended from time to time.

In addition, each Unit Owner has an unrestricted, perpetual right of ingress and egress to his or her Unit, which automatically transfers with a transfer of title to the Unit. Any conveyance, encumbrance, judicial sale, or other transfer (whether voluntary or involuntary) of an interest in the Common Elements shall be void unless the Unit to which that Common Element interest is allocated is also transferred.

(b) **UNIT BOUNDARIES:** The boundaries of each Unit subsequently created under this Declaration shall be shown on the Plat. The relocation of boundaries between Units is permitted by amendment to the Declaration in compliance with the provisions of the Condominium Act.

4. **COMMON ELEMENTS:** Each Unit will be conveyed together with its respective undivided interest in the common elements as hereinafter set forth and will have the

benefit of the right to use the common elements in common with others entitled thereto as provided by the bylaws (the "Bylaws") adopted by the Blue Heaven Condominium Association (the "Association") and Rules and Regulations adopted by the Association, if any. A copy of the Bylaws initially adopted by the Association is attached hereto as Exhibit C.

The common elements consist of all portions of the Property other than the Units. Common elements shall also include those parts of the Property described in the Act or the Plat as being common elements. Common elements shall include, but not be limited to, limited common elements.

The only common elements for this Condominium are the landscape buffer area between the Units as set forth on the Plat and any utilities services that serve more than one Unit.

5. **LIMITED COMMON ELEMENTS:** Generally, all remaining portions of the common elements appurtenant to each Unit are allocated to each Unit in accordance with the boundaries as set forth in the Plat. Each Unit owner shall be solely responsible for all maintenance, repair and upkeep thereof in good condition. Limited common elements shall also include those parts of the Property described in the Act or the Plat as being limited common elements. A Unit owner shall have no maintenance responsibility with respect to the limited common elements appurtenant to another Unit. The Association shall not be liable for the maintenance, repair or upkeep of a Unit or limited common element.

Limited Common Elements are depicted on the Plat and consist of the following:

(a) For each Unit, the exterior lawn and driveway areas assigned as Limited Common Elements on the Plat;

(b) Water, sewer or other utility lines, water heaters, electrical circuit breaker boxes and other fixtures designed to serve a single Unit but which are not a defined part of the Unit are Limited Common Elements allocated exclusively to that Unit;

(c) The exterior deck or patio areas, walks, if any, serving one Unit;

(d) The portions of the Property shown on the Plat or as described as Limited Common Elements pursuant to Section 1602-102(2) and (4) of the Condominium Act.

The allocation of Limited Common Elements cannot be altered except in compliance with the Condominium Act, and with the written consent of the Owners and Mortgagees of record of the Units affected by the reallocation of Limited Common Elements.

6. **FRACTION OF COMMON ELEMENT INTERESTS, VOTING RIGHTS AND COMMON EXPENSE LIABILITIES:** The percentage of undivided interests in the common elements, and the percentage of voting rights and common expense liabilities allocated to each Unit, is set forth on Exhibit B. No percentage of undivided interest allocated to any Unit shall be altered except upon the unanimous vote of all Unit owners and their first mortgagees.

7. **POTENTIAL FOR EXPANSION:** Each Unit may expand the buildings within the Unit boundaries as permitted by the Town Zoning Ordinance.

8. **PARKING:** Each Unit shall provide its own parking within its Limited Common Areas as permitted by Town Ordinance.

9. **ENCROACHMENTS:** If any portion of the common elements, or of any other Unit encroaches at any time upon any Unit or upon any portion of the common elements, as a result of minor variations or relocation during construction, settling of the Buildings, alteration or repair to the common elements made by or with the consent of the executive board of the Association (the "Executive Board"), repair or restoration of a Unit or the Building after damages by fire or other casualty, or as a result of condemnation or other eminent domain proceedings, an easement shall exist for the encroachment and for its maintenance so long as the Buildings or Building stand.

10. **EASEMENTS:**

(a) The Units and common elements (including the limited common elements) shall be, and hereby are, made subject to perpetual easements in favor of the utility and service companies, cable television companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property including the Units. The easements created by this Section 10(a) shall include, without limitation, rights to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains from pipes, sewer and drain lines, drainage ditches and pump stations, telephone poles, wires and equipment, television equipment and facilities (cable or otherwise), poles, wires, conduits, and equipment inducts and vents over, under, through, along and on the Units, limited common elements and common elements. With respect to any utility lines or equipment serving only the Condominium and located upon the common elements (including any limited common elements allocated to any one Unit), the Executive Board shall have the right and power to dedicate and convey an easement to any private or public utility company. The Executive Board shall also have the right and power to convey permits, licenses and easements over the common elements for the installation, maintenance, repair and replacement of utility poles, lines, wires and other equipment to any private or public utility company. In addition, the Executive Board shall have the right to grant permits, licenses and easements over the common elements (including any limited common element allocated to any one Unit) for purposes necessary for the proper operation of the Condominium.

(b) The common elements (including any limited common element allocated to any one Unit) are subject to an easement in favor of the Association and the agents and employees of the Association for the access, egress and ingress over, through and across each portion thereof for the operation of the Condominium, pursuant to such requirements and subject to such charges as the Executive Board may from time to time prescribe. Every Unit owner shall have an unrestricted right of ingress to such owner's Unit.

(c) The common elements (including any limited common element allocated to any one Unit) shall be, and hereby are made, subject to an easement in favor of the Association and the agents, employees and independent contractors thereof for the purpose of the inspection,

upkeep, maintenance, repair and replacement of the common elements. The Association may in its sole discretion grant easements to Unit owners for the erection of improvements in the limited common areas appurtenant to a Unit owner.

(d) Each Unit and its limited common elements are subject to the following easements in favor of all other Units:

(i) For installation, inspection, repair, maintenance, use, removal or replacement of pipes, ducts, heating and air conditioning systems, electrical, telephone, telegraph, or other communication systems, wiring and cables and all of the utility lines and conduits that are a part of or exclusively serve any Unit and that pass across or through a portion of such Unit and/or its limited common element or the common element; and

(ii) For the maintenance or the encroachment of any lighting devices, outlets, medicine cabinets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures that serve only one Unit but encroach into any part of such Unit, and/or its limited common element or common element on the date that this Declaration is recorded or any amendment thereof is recorded.

(e) The Units and the limited common elements are hereby made subject to an easement in favor of the Association and its agents, employees and independent contractors:

(i) For inspection of the Units and limited common elements in order to verify the performance by Unit owners of all items of maintenance and repair for which they are responsible;

(ii) For installation, inspection, maintenance, repair, and replacement of the common elements situated in or accessible from such Units or limited common elements or both;

(iii) For correction of emergency conditions in one or more Units or limited common elements, or both, or casualties to the common elements, the limited common elements and/or the Units; and

(iv) For any purposes set forth in Section 10(g) below.

(f) If construction, reconstruction, repair, shifting, settlement or other movement of any portion of the Condominium results in either the common elements encroaching on a Unit, or in a Unit encroaching on the common elements or on another Unit, a valid easement shall exist during the period of the encroachment for the encroachment and for the maintenance thereof.

(g) All easements, rights and restrictions described and mentioned in the Declaration are easements appurtenant, running with the land and the Property, and (except as expressly may

be otherwise provided herein or in the instrument creating the same) shall continue in full force and effect until the termination of this Declaration.

(h) Declarant reserves a Special Declarant Right and easement for the construction of the Units, common elements, limited common elements and other improvements of the Condominium, to enter the Property for the purposes of construction, reconstruction, maintenance, repair, renovation, replacement or correction of the Units, common elements or limited common elements. This easement shall include, without limitation, the right of vehicular and pedestrian access, the right to park motor vehicles and to engage in construction activities, including the movement and storage of building materials and equipment. This easement also expressly includes the right to cut and remove any trees, bushes, or shrubbery, to grade and remove the soil, to install and remove any temporary siltation fence or to take any other action reasonably necessary to achieve this purpose. Declarant further reserves an easement in the Units, common elements and limited common elements pursuant to Section 1602-116 of the Act for the purpose of discharging Declarant's obligations and exercising the Special Declarant Right reserved pursuant to this Declaration or on the Plat.

(i) Declarant reserves an easement on, over and under those portions of the common elements and limited common elements, not located within the Building, for the purpose of maintaining and correcting drainage of surface water in order to maintain reasonable standards of health, safety and appearance. The reservation of this right does not and shall not result in the imposition of an obligation.

(j) Declarant further reserves an easement to connect with and to make use of utility lines, wires, pipes and conduits located on the Property for construction purposes on the Property (Declarant shall be responsible for the cost of any services), and to use the common elements for access and construction activities, and for the storage of construction materials and equipment used in the completion of the Units, limited common elements and common elements.

(k) Declarant shall have the right, until Declarant has conveyed all of the Units in the Condominium, to grant and reserve easements and right-of-way through, under, over, and across the Property for construction purposes, and for the installation, maintenance and inspection of the lines and appurtenances for public water, sewer, drainage, gas, electricity, telephone and other utilities.

(l) The easements reserved by Declarant in Sections 10(h), 10(i), 10(j), and 10(k) shall continue until Declarant has conveyed all of the Units in the Condominium. These Sections shall not be amended without the written consent of Declarant, which consent shall not be unreasonably delayed, conditioned or withheld.

11. **EMINENT DOMAIN:**

(a) If a Unit is acquired by eminent domain, or if a part of a Unit is acquired by eminent domain leaving the Unit owner with a remnant that may not practically or lawfully be used for any purpose permitted by this Declaration, any award therefor shall be paid to the Unit

owner as compensation for such Unit and its percentage interest, whether or not any percentage of undivided interest is acquired. Upon acquisition, unless the decree otherwise provides, that Unit's entire percentage of undivided interest, votes in the Association, and common expense liability shall be re-allocated to the remaining Units in proportion to the relative interests, votes and liabilities of those Units before the taking, and the Association shall promptly prepare, execute and record an amendment to this Declaration reflecting the allocations. Any remnant of a Unit remaining after part of a Unit is taken, as determined under this Section 11(a), shall be thereafter a limited common element, subject to the provisions of Section 5 herein.

(b) Except as provided in Section 11(a) above, if part of a Unit is acquired by eminent domain, any award therefore shall be paid to the Unit owner as compensation for the reduction in value of the Unit. That Unit's allocation of common element interests and common expense liability and voting rights shall remain unchanged.

(c) If a part of the common elements is acquired by eminent domain, the Association shall represent the Unit owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority, and the award shall be paid to the Association for the use and benefit of the Unit owners and their mortgagees as their interests may appear. The Association shall divide any portion of the award not used for any restoration or repair of the remaining common elements among the Unit owners in proportions to their relative percentages of undivided interests before the taking, but the portion of the award attributable to the acquisition of a limited common element must be paid to the owner of the Unit to which that limited common element was allocated at the time of acquisition.

(d) A court decree regarding any such taking shall be recorded in the Cumberland Country Registry of Deeds.

(e) Nothing in this Declaration, the Bylaws or any rules or regulations adopted by the Executive Board shall be deemed to give the Unit owner or any other party priority over any rights of a first mortgagee of a Unit pursuant to its mortgage documents in the case of a distribution to such Unit owner of condemnation awards for the taking of Units and/or common elements.

12. **RESTRICTIONS ON USE AND OCCUPANCY:**

(a) The Units are restricted to private residential use, including residential activities engaged in by Unit owners, members of the Unit owners, immediate family and the guests and other authorized occupants, licensees and visitors of the Unit owners. These Units may not be used for professional, business, commercial, industrial or manufacturing purposes, or primarily for storage, except for such limited activities as permitted by the applicable zoning ordinance.

(b) No Unit owner may carry on any practice, or permit any practice to be carried on, that unreasonably interferes with the quiet enjoyment of the occupants of any other Unit. Each Unit owner shall maintain its Unit and the appurtenant Limited Common Elements in a clean and sanitary condition.

(c) No Unit shall be used, occupied or kept in a manner that in any way would be deemed hazardous and/or result in an increase in the fire insurance premiums for a Unit beyond the standard rates for a dwelling in a multi-family structure, without the prior written permission of the Board of Directors.

(d) A Unit owner may lease or sublease its Unit at any time and from time to time.

(e) A Unit owner shall be responsible for the cleanliness of any Limited Common Element serving such Unit, at the expense of such Unit owner.

(f) Each Unit owner shall comply strictly with the Bylaws and with the Rules and Regulations, if any, adopted and amended from time to time by the Board of Directors and with the covenants, conditions and restrictions set forth in this Declaration or in the deed to a Unit. Failure to so comply shall be grounds for an action to recover damages or for injunctive relief or both maintainable by the Association or any aggrieved Unit owner.

13. **COMMON EXPENSES:** Each Unit owner shall pay to the Association, or its authorized representative, monthly, his proportionate share of the budgeted expenses of the Association. Each Unit's proportionate share of common expenses is described in Section 6 herein. Payment thereof shall be in equal monthly, quarterly or annual amounts and subject to annual review and adjustment. In the event of the failure of a Unit owner to pay such proportionate share when due, the amount thereof, together with (i) interest at the rate of eighteen percent (18%) per annum or such other rate as may be established by the Association, (ii) such late fees as may be established by the Association, and (iii) costs and reasonable attorney's fees, shall constitute a lien on the interest of such Unit owner, as provided by the Act; provided, however, that such lien shall be subordinate to the lien of all recorded first mortgages on the interest of such Unit owner, and the foreclosure of such mortgages, sale or transfer pursuant to foreclosure or transfer to the first mortgagee in lieu of foreclosure shall extinguish a subordinate lien for common charges. The entire unpaid share of the common expenses or assessments by the Association chargeable to such Unit, that become due prior to the foreclosure, shall become common expenses collectible from all owners of a Unit. Such foreclosure shall not release the delinquent Unit owners from personal liability to the Association for unpaid common expenses.

14. **MAINTENANCE:** Each Unit owner shall furnish and be responsible for, at such owner's expense, all the maintenance, repairs and replacements within and upon such owner's Unit and the limited common elements allocated to such Unit.

15. **ASSOCIATION OF UNIT OWNERS:** The Association shall be the governing body for the Unit owners with respect to the administration of the Property as provided by the Act, this Declaration and the Bylaws. The Association shall elect officers as provided in the Bylaws.

Each Unit owner and/or owners shall be a member of the Association. Membership shall

be appurtenant to the Units, and the transfer of title to a Unit shall automatically transfer the regular membership appurtenant to that Unit to the transferee or transferees. A transfer pursuant to a mortgage, however, shall not transfer membership until foreclosure or a transfer to a mortgage in lieu of foreclosure.

The provisions of this Declaration and the Bylaws and the rights and obligations established thereby shall be deemed to be covenants, running with the land, so long as the Property remains subject to the provisions of the Act and shall inure to the benefit of and be binding upon each and all of the Unit owners and their respective heirs, representatives, successors, assigns, purchasers, lessees, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Unit or any interest therein, or any ownership interest in the Property whatsoever, the person to whom such Unit or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of the Act, this Declaration, and the Bylaws.

In any voluntary conveyance of a Unit, it shall be the duty of the seller to furnish the buyer with a copy of this Declaration, the Association Bylaws and rules and regulations as they may from time to time be amended. The Declarant or the Association shall make available to Unit owners, prospective purchasers, lenders and the holders, insurers and guarantors of the first mortgage on any Unit, current copies of the Declaration, Bylaws and other rules and regulations governing the Condominium, and other books, records and financial statements of the Association. This requirement may be satisfied by making the documents available for inspection upon request during normal business hours or under other reasonable circumstances. If copies are requested, the Declarant or Association may, but shall not be obligated to, make them available at a reasonable charge.

16. **EXECUTIVE BOARD POWERS:** Except as otherwise provided in Section 1603-103(b) of the Act, the Executive Board may act on behalf of the Association and shall have all of the powers necessary for the administration of the affairs of the Association. An Executive Board composed of three (3) natural persons shall govern the affairs of the Association. Two of the members of the Executive Board shall be Unit owners and each of the Unit owners shall together appoint one member to the Executive Board. In the event of any tie votes, a person selected as Arbitrator, pursuant to paragraph 21, shall be the third member of Executive Board. Prior to the Transition Election provided for by subparagraph 16(a), the Executive Board shall be composed of three (3) natural persons. "Declarant Control Period" means the entire time period which extends from the date of the recording of this Declaration until the earlier of (a) five (5) years following the conveyance of the first Unit to a Purchaser or (b) sixty (60) days after the conveyance to Purchasers of two (2) of the Units. The Declarant shall have the right during the Declarant Control Period to appoint, remove and replace from time to time any and all members of the Executive Board, and officers of the Association, without the necessity of obtaining resignations. The appointees of the Declarant need not be Unit owners. After the Transition Election, at least a majority of the members of the Executive Board shall be Unit owners or spouses of Unit owners, or in the case of a Unit owner which is a corporation, partnership, trust or estate, a designated agent thereof. The transition from Declarant-appointed members of the Executive Board to Unit owners other than the Declarant shall occur as follows:

(a) No later than the earlier of

(1) sixty (60) days after the conveyance of two (2) of the Units to Purchasers or

(2) five (5) years following conveyance of the first Unit to a Purchaser, or at such earlier date as the Declarant in its sole discretion shall specify, the Transition Meeting of the Association and Transition Election shall be held at which all of the members of the Executive Board and officers of the Association appointed by the Declarant shall resign, and the Unit owners, including the Declarant if the Declarant owns one or more Units, shall thereupon elect two (2) successor members of the Executive Board to act in the place and stead of those resigning.

(b) The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Declarant Control Period, but in that event it may require, for the duration of the Declarant Control Period, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before such actions can become effective.

17. **NOTICE:** The Clerk of the Association shall cause notice of all meetings of members and of all proposed actions requiring vote or approval of a specified percentage of Unit owners and/or mortgagees to be sent in writing by U.S. Mail, postage prepaid or to be personally delivered, to all Unit owners and all eligible mortgage holders at the address filed with the Clerk by said owners and mortgage holders not less than five (5) days and not more than twenty-five (25) days prior to the proposed meeting or action. Such notice shall be deemed to be given when so delivered in person or on the second business day following such mailing. Such notice may, however, set a later deadline for any proposed action, if such longer period of time is deemed necessary to obtain the required number of written approvals. Notice of meetings shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration and Bylaws, any budget changes and any proposal to remove a director or officer.

18. **SEPARATE TAXATION AND UTILITIES:** It is understood that real estate taxes are to be separately taxed to each Unit owner for such owner's Unit and the corresponding percentage of ownership in the common elements, as provided in the Act. In the event that for any year such taxes are not separately taxed to each Unit owner, but are taxed on the Property as a whole, then each Unit owner shall pay a proportionate share thereof in accordance with such owner's relative percentage of ownership interest in the common elements.

Each Unit owner shall pay for such owner's telephone, electricity, and other utilities that are separately metered or billed to each user by the respective utility company. Except as may otherwise be provided in Section 5 herein, utilities that are not separately metered or billed shall be treated as part of the common expense and Unit owners shall take reasonable steps to conserve such utilities.

19. **INSURANCE AND RELATED MATTERS:** With respect to each Unit and the limited common elements appurtenant thereto, each Unit owner shall maintain insurance against loss or damage by fire and such other hazards as are covered under Standard Extended Coverage Provisions and all other perils customarily covered for similar types of properties, including those covered by the standard "all risk" endorsement, for an amount sufficient to avoid the application of any co-insurance provision. The proceeds of such insurance shall be used for the reconstruction of the Units and limited common elements or shall be otherwise disposed of in accordance with the provisions of this Declaration of the Act; and the policies shall contain the standard mortgage clause, provided, however, that the rights of the mortgagee of a Unit under any standard mortgage clause endorsement to such policies shall be subject to the provisions in the Act with respect to the application of insurance proceeds to the reconstruction of the Units. Each Unit owner shall indemnify and save harmless the Association from any liability, claim, loss, damage, expense, action or cause of action relating to or out of such owner's respective Unit and its appurtenant limited common elements.

20. **MORTGAGE PROVISIONS:**

(a) The Unit owner who mortgages his Unit shall notify the Executive Board of the name and address of his mortgagee and shall, upon request, file a conformed copy of the mortgage with the Executive Board.

(b) The Executive Board, whenever so requested in writing by a mortgagee of a Unit, shall promptly report to it any then unpaid common charges due from, or any other default by, the owner of the mortgaged Unit.

(c) The Executive Board, when giving notice to a Unit owner of a default in paying common charges or other violation of the provisions of this Declaration, the Bylaws or any rules and regulations, shall send a copy of such notice within thirty (30) days after the occurrence of such default to each holder of a mortgage covering such Unit whose name and address has previously been furnished to the Executive Board.

(d) Each mortgagee of a Unit shall be permitted to examine the books, accounts and records of the Association at reasonable times on business days and to require annual reports and other financial data of the Association. If no audited financial statement is available, any holder of a mortgage on any Unit shall be allowed to have an audited statement prepared at its own expense.

(e) Notwithstanding anything to the contrary elsewhere contained in this Declaration or the Bylaws, the following provisions shall govern:

(i) Any first mortgagee of a Unit in the Condominium will, upon request, be entitled to inspect the books and records of the Association during normal business hours.

(ii) No provision of this Declaration or of the Bylaws shall be deemed or

construed to give a Unit owner, or any other party, priority over any rights of first mortgagees of Units pursuant to their mortgages in the case of a distribution to Unit owners of insurance proceeds or condemnation awards for losses to or a taking of Units and/or common elements.

(iii) A first mortgagee of a Unit shall be entitled to prompt written notification from the Executive Board of:

(A) any default by the mortgagor of such Unit in the performance of such mortgagor's obligations under this Declaration and/or the Bylaws that is not cured within thirty (30) days,

(B) any event of substantial destruction to, or condemnation or governmental taking of, such Unit or any portion of the common elements appurtenant thereto,

(C) any lapse or modification of insurance or fidelity bond coverages,

(D) any proposed amendment under Section 21 of this Declaration, and

(E) any proposed action that entitles an eligible mortgage holder to notice under Section 1602-119(b) of the Act.

(f) Any first mortgagee of a Unit who obtains title to the Unit pursuant to the remedies provided in the mortgage, or through foreclosure of the mortgage, or through deed (or assignment) in lieu of foreclosure, shall take the property free of any claims for unpaid assessments or charges against such Unit that accrue prior to the acquisition of title to such Unit by the mortgagees, but such expenses or assessments shall become common expenses collectible from all of the owners of such Unit.

21. **ARBITRATION:** In the event there is a disagreement about the Unit owners, Eligible Mortgage Holders, the Executive Board or any of the interested parties herein that threatens the harmonious operation of the Condominium, such issue or issues shall be submitted to arbitration as set forth below. The Arbitrator shall also serve as an interim third member of the Executive Board. In the event of any dispute, the Unit owners shall make good faith efforts to resolve it. In order to minimize both the costs of and time for dispute resolution in all disputes, the Unit owners agree that if any of them believes that others have not complied with the terms of this Declaration, Bylaws, Rules and Regulations or any other aspects affecting the well-being of the Association, such dispute will be resolved by binding arbitration.

The objecting party shall notify the other Unit owners and request a meeting within five (5) days in Scarborough, Maine (or any other mutually agreed-upon place) to resolve such dispute. If the dispute is not resolved at such a meeting, either party may request that the matter be resolved according to the following procedure.

The objecting party shall submit the dispute within ten (10) days (the "Submission Date") following the said meeting to an attorney or other expert with experience in condominium dispute resolution and belonging to the American Arbitration Association. The objecting party shall notify the other Unit owners of its selection of an arbitrator, and if not acceptable to the other Unit owners, the other Unit owners shall notify the objecting party of their selection of an arbitrator. The two arbitrators selected shall together select a third arbitrator (the "Arbitrator") which third Arbitrator shall solely hear the dispute.

Any materials or written arguments which either party deems important to the resolution of the dispute shall be submitted to the Arbitrator. The dispute shall be heard as quickly as possible by the Arbitrator. The Arbitrator shall allocate the costs of the dispute resolution process (including but not limited to the attorneys' and witness fees of each party and the costs of the Arbitrator) between the parties as it deems fair and equitable. The decision of the Arbitrator shall be binding upon all of the parties and shall be enforceable in the courts of the State of Maine.

In the event that the Arbitrator shall be unable or unwilling to accept the dispute resolution at the time of the dispute as of the Submission Date, the parties shall use the Arbitrator selection process outlined above to find a successor.

The term "days" as used herein shall exclude any Saturday, Sunday, and legal holiday. Any failure by either party to follow the process set forth above may serve as the basis for an adverse ruling by the Arbitrator unless the Arbitrator shall determine that such failure was due to extraordinary circumstances beyond the control of the failing party.

22. **AMENDING THE DECLARATION:** Except to the extent expressly permitted or required by the Act, this Declaration may be amended by a vote or by written approval of the Unit or owners of Units to which at least seventy-five percent (75%) of the votes in the Association are allocated and written approval from eligible mortgage holders, as defined in the Act, representing at least seventy-five percent (75%) of the votes allocated to Units that are subject to eligible first mortgages.

23. **NAME AND ADDRESS:** The name of the Condominium is the Blue Heaven Condominium, and the Condominium is located at 20 Jones Creek Drive, in Scarborough, Maine.

24. **APPLICABLE LAW; INTERPRETATION; SEVERABILITY:** This Declaration shall be governed by and construed in accordance with the laws of the State of Maine. In the event of any conflict or discrepancy between this Declaration, the Bylaws and the Plat, this Declaration shall govern. If any provision of this Declaration, the Bylaws or any rules and regulations are in conflict with any applicable laws, including the Act, then such laws shall govern and such invalid provision shall be of no force and effect, but the validity of the remainder of this Declaration, the Bylaws and any such rules and regulations shall not be affected thereby and shall remain in full force and effect as if such invalid provision had not been included.

The captions herein are inserted for convenience and reference and do not limit, alter or define the terms of this Declaration. All exhibits attached to this Declaration are hereby made a part hereof.

25. **REMEDIES; WAIVER:** All rights, remedies and privileges granted to the Declarant, the Association or a Unit owner pursuant to the terms of this Declaration, the Bylaws and any rules and regulations shall be deemed to be cumulative to any other right or remedy under said documents or afforded by law or equity, and may be exercised concurrently, independently or successively. Any forbearance in exercising any right or remedy hereunder or otherwise available by applicable law shall not be a waiver of or preclude the exercise of any such right or remedy.

26. **EFFECTIVE DATE:** This Declaration shall become effective when it and the Plat have been recorded.

IN WITNESS WHEREOF, Leah Ledoux has caused this instrument to be executed by its duly authorized representative this 3 day of September, 2020.

Witness

Leah Ledoux

STATE OF MAINE
COUNTY OF CUMBERLAND

September 3, 2020

Personally, appeared the above-named Leah Ledoux, and acknowledged the foregoing instrument to be her free act and deed.

Before me,

Notary Public/Attorney at Law

Donna P. Russell
Notary Public, Maine
Commission Expires: September 23, 2020

EXHIBIT A

Blue Heaven Condominium

A certain parcel or parcel of land with the buildings thereon situated in said Town of Scarborough on the northerly side of East Grand Avenue, so-called, bounded and described as follows:

On the south by the northerly line of Grand Avenue, on the east by land formerly of Emma K. Tasker Lothrop, on the north by the marsh, and the west by land formerly of William Lothrop, said lot extending from the northerly line of Grand Avenue a uniform width northerly one hundred sixty-five feet, more or less, to the marsh.

The premises herein are subject to an encroachment easement from Leah Ledoux to John H. Wallace and Lisa F. Wallace, dated August 25, 2020, recorded in the Cumberland County Registry of Deeds in Book 37112, Page 154.

Being the same premises conveyed to the Declarant by deed dated May 16, 2014, recorded in the Cumberland County Registry of Deeds in Book 31508, Page 246.

EXHIBIT B

Blue Heaven Condominium

Percentage of Common Element Ownership Interests, Common Expense Liability and Vote.

	Common Interest and Liability	Vote
Unit A	50 %	1
Unit B	50 %	1
	100%	2

There is one water line and one water meter serving the two Units. A submeter will be installed on the line between Units A and B. The Owner of Unit A shall be responsible to pay the water bill in full. The Owner of Unit B shall promptly pay the Owner of Unit A for their portion of the utility service as determined by the submeter. If Unit B fails to pay, Unit A may file suit, file a lien against Unit B, and the Owner of Unit B shall be responsible for all expenses, including attorney fees, as well as 18% interest on any costs advanced by Unit A.

If the water line between the Street and Unit A has to be replaced, that will be a joint equal expense of the two Units. Replacement of the water line between Unit A and Unit B shall be solely the responsibility of Unit B.

Pursuant to the Bylaws Paragraph 6.1.2, flood insurance shall be paid by each Unit in proportion to the cost of insuring each structure.

EXHIBIT C

BY-LAWS
of the
BLUE HEAVEN CONDOMINIUM

ARTICLE I

Introductory Provisions

1.1. Name. The name of this Association is Blue Heaven Condominium (the "Association"). The address is 20 Jones Creek Drive, Scarborough, Maine. These By-Laws have been adopted as required by Section 1603-106 of the Act to govern the Association.

1.2. Applicability of By-Laws. The provisions of these By-Laws are applicable to the Property of the Condominium and to the use and occupancy thereof.

1.3. Office. The principal office of the Association and the Executive Board shall be located at 20 Jones Creek Drive, Scarborough, Maine or at such other location as the Executive Board may designate from time to time.

1.4. Corporation Law. Except as otherwise expressly provided herein, in the Declaration, or in the Act, the Association shall be governed by the provisions of the Maine Nonprofit Corporation Act, Title 13-B of the Maine Revised Statutes of 1964, as amended (the "Nonprofit Corporation Act") and the "Board of Directors" described therein shall be referred to herein and in the Declaration as the "Executive Board."

1.5. Definitions. Capitalized terms used herein without definition shall have the meanings specified for such terms in said Declaration to which these By-Laws pertain or, if not defined therein, the meanings specified or used for such terms in the Act.

ARTICLE II

The Association

2.1. Composition, Powers and Duties. The composition, powers and duties of the Association are as set forth in the Declaration.

2.2. Nontransferability of Interests. Except as provided herein or in the Declaration, membership shall not be transferable. The membership of each Unit Owner shall terminate upon a sale, transfer or other disposition, other than by mortgage, of the ownership interest of such Unit Owner in the Property, accomplished in accordance with the provisions of the Declaration, and thereupon the membership and any interest in the Reserve Fund and other common funds shall automatically transfer to and be vested in the next Owner or Owners succeeding to such

ownership interest.

2.3. Meetings of Members. Meetings of the membership shall be held at the principal office of the Association or at such other place as may be specified in the notice of the meeting. Owners may attend meetings in person or by proxy by their spouse or registered domestic partner.

2.4. Annual Meetings. The annual meeting of the members shall be held each year on or about the last Tuesday of the month of October. In the event that the day for which an annual meeting is scheduled is a legal holiday, then the meeting shall be held on the first day thereafter which is not a legal holiday. At such meetings there shall be elected by ballot of the members an Executive Board in accordance with the provisions of Article III. The members shall also transact such other business as may properly come before them.

2.5. Special Meetings. The President shall call a Special Meeting of the Association if so directed by resolution of the Executive Board or upon the written request of one (1) Unit owner presented to the Clerk. The notice of any Special Meeting shall state the time, the place and purpose thereof. Such meetings shall be held within thirty (30) days after receipt by the President of said resolution or written request; provided, however, if the purpose included the consideration of the rejection of a capital expenditure pursuant to Section 5.9 herein, such meeting shall be held within fifteen (15) days after receipt by the President of said resolution or written request.

2.6. Notice of Meeting. It shall be the duty of the Secretary, or upon his failure or neglect then of any other officer, to give notice of each annual or special meeting, the time and place of the meeting, and the items on the agenda for that meeting, including the general nature of any proposed amendment to the Declaration or these By-Laws, any budget changes and any proposal to remove a member of the Executive Board or officer, to each member of record including the Declarant as long as it is the Owner of record of a Unit and to each Eligible Mortgage Holder. With respect to any annual or special meeting such notice shall be so mailed at least ten (10) days but no more than forty-five (45) days prior to the date so set for the meeting.

2.7. Quorum. The presence, either in person or by proxy, of the Owners of the Units to which are allocated at least one-half (1/2) of the Votes in the Association shall be requisite for and shall constitute a quorum for the transaction of business at all meetings of members.

2.8. Adjournment of Meetings. If at any meeting of members a quorum shall not be in attendance, those members who are present may adjourn the meeting to a time not less than forty-eight (48) hours from the time at which the original meeting was called.

2.9. Votes in Association. The Vote in the Association allocated to each Unit is listed on Schedule B of the Declaration.

2.10. Voting. Voting shall be in accordance with Section 1603-110 of the Act and the

Declaration, including, but not limited to, Section 1603-110(b). If the Declarant owns or holds title to one or more Units, the Declarant shall have the right at any meeting of the members to cast the votes allocated to such Unit or Units.

2.11. Majority Vote Required. Unless by express provisions of the Act, these By-Laws or the Declaration a different vote is required, each question presented at a meeting shall be determined by a vote of a majority of Unit Owners. As used in these By-Laws, the term "majority of Unit Owners" shall mean the Unit Owners of those Units to which are allocated more than fifty percent (50%) of the total authorized Votes allocated to all of the Units that are present in person or by proxy and voting in any meeting of the Association at which a quorum is present as determined in accordance with Paragraph 2.7.

2.12. Informal Action. Any action required or permitted to be taken at any meeting of the members may be taken without a meeting if a written consent thereto is signed by all the members. The Secretary shall file such written consent with the records of the meetings of the members and such consent shall be treated as a unanimous vote of members for all purposes.

2.13. Order of Business. The order of business at all meetings of the members shall be as follows:

(a) Roll call;
(b) Proof of notice of meeting;
(c) Reading of minutes of preceding meeting for approval of same;
(d) Reports of Executive Board or of officers or of the manager;
(e) Reports of committees, if any;
(f) Election of inspectors of elections (when so required);
(g) Election of members of the Board of Directors (when so required);
(h) Unfinished business;
(i) New business.

At all meetings of the Association or of the Executive Board, Robert's Rules of Order, as then amended, shall be followed, except in the event of conflict in which these By-Laws or the Declaration, as the case may be, shall prevail.

ARTICLE III

Executive Board

3.1. Number and Qualification. The affairs of the Association shall be governed by an Executive Board composed of three (3) persons. During the period of Declarant control, as provided in the Declaration, the Executive Board shall be composed of three (3) persons who shall be appointed, removed and replaced from time to time by the Declarant without the necessity of obtaining resignations. The appointees of the Declarant need not be Unit Owners. After the end of the period of Declarant control, the Executive Board shall be composed of three

(3) individuals, as the Board may determine from time to time. A majority of the Executive Board shall be Unit Owners. The third member of the Executive Board shall be the Arbitrator as set forth in Paragraph 21 of the Declaration. In the case of a Unit Owner which is a corporation, partnership, trust or estate, a designated agent who is a shareholder, partner or beneficiary thereof may be appointed as a member of the Executive Board. A Unit Owner must be current in the payment of all condominium and parking fees to be elected (or have its agent elected) to the Executive Board.

3.2. Election and Term of Office. The members of the Executive Board shall be elected as follows:

3.2.1. At the annual meetings of the Association, subject to Paragraph 16 of the Declaration, the election of members of the Executive Board shall be held. The term of office of each Executive Board member shall be fixed at four (4) years, so that after the Declarant Control Period ends, one-half (2) of the Executive Board may be replaced at each annual meeting. Each member of the Executive Board shall hold office until earlier to occur of the election of his or her respective successor, or his or her death, adjudication of incompetency, removal or resignation. An Executive Board member may be elected to succeed himself or herself for an unlimited number of terms.

3.2.2. Persons qualified to be members of the Executive Board may be nominated for election only as follows:

3.2.2.a. Any Unit Owner may submit to the Secretary at least thirty (30) days before the meeting at which the election is to be held a nomination petition signed by Unit Owners owning at least two (2) Units and a statement that the person nominated is willing to serve on the Executive Board. The Secretary shall mail or hand deliver the submitted items to every Unit Owner along with the notice of such meeting;

3.2.2.b. Nominations may be submitted from the floor at the meeting at which the election is held for each vacancy on the Executive Board for which no more than one (1) person has been nominated by petition.

3.3. Powers and Duties. The Executive Board shall have the powers and duties necessary for the administration of the affairs of the Association and shall have all powers and duties referred to in the Declaration and the Act.

3.4. Delegation of Powers; Managing Agent. The Executive Board may employ for the Condominium a "Managing Agent" or "Manager" at a compensation established by the Executive Board. The managing agent shall perform such duties and services as the Executive Board shall authorize, including but not limited to, all of the duties listed in the Act, the Declaration and these By-Laws; provided, however, where a Managing Agent does not have the power to act under the Act, the Declaration or these By-Laws, such duties shall be performed as advisory to the Executive Board. The Executive Board may delegate to the Managing Agent all of the powers granted to the Executive Board by the Act, the Declaration and these By-Laws

other than the following powers:

3.4.1. To adopt the annual budget and any amendment thereto or to assess any Common Expenses;

3.4.2. To adopt, repeal or amend rules and regulations of the Association;

3.4.3. To designate signatories on Association bank accounts;

3.4.4. To borrow money on behalf of the Association;

3.4.5. To acquire and mortgage Units;

3.4.6. To allocate Limited Common Elements.

Any employment contract between the Managing Agent and the Association must provide that it may be terminated with cause on no more than thirty (30) days' written notice and without cause on no more than ninety (90) days' written notice.

3.5. Removal and Resignation of Members of the Executive Board. Except with respect to members designated by Declarant during the Declarant Control Period, at any regular or special meeting of the Association duly called, any one or more of the members of the Executive Board may be removed with or without cause by Unit Owners entitled to cast at least two-thirds (2/3) of all the votes in the Association, and a successor may then and there be elected to fill the vacancy thus created. A Board member may be removed by vote of a majority of the other Board members if said Board member is not current in the payment of condominium and parking fees. Any Unit Owner proposing removal of a Board member shall give notice thereof to the Secretary. Any member whose removal has been proposed by a Unit Owner shall be given at least ten (10) days' notice by the Secretary of the time, place and purpose of the meeting and shall be given an opportunity to be heard at the meeting. A Board member may resign by submitting his or her resignation in writing to the President or Secretary of the Executive Board.

3.6. Vacancies. Except as set forth in Paragraph 3.1. with respect to members appointed by Declarant, vacancies in the Executive Board caused by reason other than the removal of a member by a vote of the Unit Owners shall be filled by a vote of a majority of the remaining members at a special meeting of the Executive Board held for such purpose promptly after the occurrence of any such vacancy, even though the members present at such meeting may constitute less than a quorum. Each person so elected shall be a member of the Executive Board for the remainder of the term of the member being replaced and until a successor shall be elected at the next annual meeting of the Association at which such seat is to be filled upon expiration of the term of his predecessor. In the case of multiple vacancies, the member receiving the greatest number of votes shall be elected for the longest term.

3.7. Organizational Meeting. The first meeting of the Executive Board following each annual meeting of the Association shall be held within ten (10) days thereafter at such time and place as shall be fixed by the President (even if he is the outgoing President) at the meeting at

which such Executive Board shall have been elected, and no notice shall be necessary to the newly elected members of the Executive Board in order legally to constitute such meeting, if a majority of the Executive Board members shall be present at such meeting. The Secretary shall give notice of such meeting to each Eligible Mortgage Holder in the manner provided in the Declaration for service of notice upon Eligible Mortgage Holders at least five (5) days before such meeting.

3.8. Regular Meetings. Regular meetings of the Executive Board may be held at such time and place as shall be determined from time to time by a majority of the members, but such meetings shall be held at least once every four (4) months during each fiscal year. Notice of regular meetings of the Executive Board shall be given to each member and Eligible Mortgage Holder by the Secretary in the manner provided in the Declaration for service of notice upon Unit Owners and Eligible Mortgage Holders, at least ten (10) business days prior to the day named for such meeting.

3.9. Special Meetings. Special meetings of the Executive Board may be called by the President on at least three (3) business days' notice by the Secretary to each member and Eligible Mortgage Holder, given by mail, telegraph or hand delivery, securing a receipt therefor, which notice shall state the time, place and purpose of the meeting. Special meetings of the Executive Board shall be called by the President or Secretary in like manner and on like notice on the written request of a member of the Executive Board.

3.10. Waiver of Notice. Any member may at any time, in writing, waive notice of any meeting of the Executive Board, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member at any meeting of the Executive Board shall constitute a waiver of notice by him of the time, place and purpose of such meeting unless the sole purpose of the member's attendance is to protest the holding of the meeting. If all members are present at any meeting of the Executive Board, no notice shall be required and any business may be transacted at such meeting.

3.11. Quorum of the Executive Board. At all meetings of the Executive Board one-half of the members shall constitute a quorum for the transaction of business, and the votes of a majority of the members present at a meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. One or more members of the Executive Board may participate in and be counted for quorum purposes at any meeting by means of conference telephone or similar communication equipment by means of which all persons participating in the meeting can hear each other.

3.12. Compensation. No member of the Executive Board shall receive any compensation from the Association for acting as such, but may be reimbursed for any expenses incurred in the performance of his duties.

3.13. Conduct of Meetings. The President shall preside at all meetings of the Executive Board and the Secretary shall keep a minute book of the Executive Board meetings, recording therein all resolutions adopted by the Executive Board and recording of all transactions and

proceedings occurring at such meetings. The then current edition of Robert's Rules of Order shall govern the conduct of the meetings of the Executive Board if and to the extent not in conflict with the Declaration, these By-Laws or the Act.

3.14. Action Without Meeting. Any action by the Executive Board required or permitted to be taken at any meeting may be taken without a meeting if all of the members of the Executive Board shall individually or collectively consent in writing to such action. Any such person's written consent shall be filed with the minutes of the proceedings of the Executive Board.

3.15. Validity of Contracts with Interested Executive Board Members. No contract or other transaction between the Association and one or more of its Executive Board members or between the Association and any corporation, firm or association in which one or more of the Executive Board members are directors or officers, or are financially interested, shall be void or voidable because such Executive Board member or members are present at any meeting of the Executive Board which authorized or approved the contract or transaction or because his or their votes are counted, if the circumstances specified in either of the following subparagraphs exists:

3.15.1 The fact that an Executive Board member is also such a director or officer or has such financial interest is disclosed or known to the Executive Board and is noted in the minutes thereof, and the Executive Board authorized, approves or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such Executive Board member or members, or

3.15.2 The contract or transaction is made in good faith and not unconscionable to the Association at the time it is authorized, approved or ratified.

3.16. Inclusion of Interested Executive Board Members in a Quorum. Any Executive Board member holding such director or officer position or having such financial interest in another corporation, firm or association may be counted in determining the presence of a quorum at a meeting of the Executive Board or a committee thereof which authorizes, approves or ratifies a contract or transaction of the type described in Section 3.15 herein.

ARTICLE IV

Officers

4.1. Designation and Election. The principal officers of the Association shall be the President, the Secretary and the Treasurer, all of whom shall be elected by the Executive Board at the annual meeting of such Board. The Executive Board may appoint an assistant treasurer, an assistant secretary and such other officers as in its judgment may be necessary. The President shall be a Unit Owner and a member of the Executive Board. Any other officers may, but need not, be Unit Owners or members of the Executive Board. An officer other than the President may hold more than one office.

4.2. Removal of Officers. Upon the affirmative vote of a majority of all members of the Executive Board, any officer may be removed, either with or without cause, and a successor may be elected at any meeting of the Executive Board called for such purpose.

4.3. President. The President shall be the chief executive officer of the Association, preside at all meetings of the Association and of the Executive Board, shall represent and cast votes on behalf of the Association at meetings of the Association, and have all of the general powers and duties which are incident to the office of President of a nonprofit corporation organized under the laws of the State of Maine including without limitation the power to appoint committees from among the Unit Owners from time to time as the President may in his discretion decide is appropriate to assist in the conduct of the affairs of the Association. The President shall cease holding such office at such time as he ceases to be a member of the Executive Board.

4.4. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Executive Board, have charge of such books and papers as the Executive Board may direct, maintain a register setting forth the place to which all notices to Unit Owners and Eligible Mortgage Holders, hereunder and pursuant to the Declaration, shall be delivered and, in general, perform all the duties incident to the office of secretary of a nonprofit corporation organized under the laws of the State of Maine. The Secretary shall, within ten (10) days after receipt of request, provide any person, or cause to be provided to any person, entitled thereto at the expense of the person requesting it a written statement or certification of the information required to be provided by the Association pursuant to Sections 1603-116(h) and 1604-108(b) of the Act and Paragraph 5.2.2.

4.5. Treasurer. The Treasurer shall have the responsibility for the safekeeping of Association funds and securities; keeping full and accurate financial records and books of account showing all receipts and disbursements; the preparation of all required financial data; providing to the Secretary the financial and budgetary information necessary for the Secretary to provide the certifications required by Paragraph 4.4; the deposit of all monies in the name of the Executive Board, the Association or the managing agent, in such depositories as may from time to time be designated by the Executive Board; and, in general, all the duties incident to the office of Treasurer of a nonprofit corporation organized under the laws of the State of Maine.

4.6. Execution of Documents. All agreements, contracts, deeds, leases, checks and other instruments of the Association for expenditures or obligations in excess of Five Hundred Dollars ($500.00) shall be executed by the President or the Secretary and the Treasurer of the Association. All such instruments for expenditures or obligations of Five Hundred Dollars ($500.00) or less may be executed by any one officer of the Association or such other person or employee as the Executive Board may designate in writing.

4.7. Compensation of Officers. No officer who is also a member of the Executive Board shall receive any compensation from the Association for acting as such officer, but may be reimbursed for any out-of-pocket expenses incurred in performing his duties; provided, however, the Secretary and Treasurer may be compensated for their services if the Executive Board

determines such compensation to be appropriate.

ARTICLE V

Operation of the Property

5.1. Fiscal Year. The fiscal year of the Association shall begin on such date as shall be established by the Executive Board, except for the first fiscal year of the Association which shall begin at the date of incorporation of the Association. The commencement date of the fiscal year so established shall be subject to change by the Executive Board.

5.2. Preparation and Approval of Budget.

5.2.1. On or before ninety (90) days before the beginning of the fiscal year for which a Common Expense assessment is made, the Executive Board shall adopt an annual budget for the Association containing an estimate for the total amount considered necessary to pay the cost of maintenance, management, operation, repair and replacement of the Common Elements and those parts of the Units as to which it is the responsibility of the Association to maintain, repair and replace, and the cost of wages, materials, insurance premiums, services, supplies and other expenses that may be declared to be Common Expenses by the Act, the Condominium Documents or a resolution of the Association and which will be required during the ensuing fiscal year for the administration, operation, maintenance and repair of the Property and the rendering to the Unit Owners of all related services. The budget shall include such amounts as the Executive Board shall consider necessary to provide working capital, a general operating reserve fund for replacements, capital improvements, and other items which cannot be expected to occur on a regular basis. The budget shall also reflect the separate assessment of Limited Common Expenses.

5.2.2. On or before sixty (60) days before the beginning of the fiscal year for which a Common Expense assessment is made, the Executive Board shall make such budget available for inspection during business hours by any Unit Owner or Mortgagee at the Property and the Secretary shall provide to the Unit Owners and Eligible Mortgage Holders a summary of that budget in reasonably itemized form setting forth the separate amount of the Common Expenses and Limited Common Expenses and shall set a date for a special meeting of the Unit Owners and Eligible Mortgage Holders to consider ratification of such budget not less than fourteen (14) days nor more than thirty (30) days after mailing of such summary of budget accompanied by notice of the special meeting to each Unit Owner and Eligible Mortgage Holder. Unless at the meeting a majority in voting interest of all the Unit Owners reject the proposed budget or revised budget, that budget is ratified irrespective of whether a quorum is present at said meeting. In the event such budget shall be rejected at the meeting, the budget last ratified with respect to the period covered by the proposed budget shall be continued as the budget for the Condominium until such time as the Unit Owners ratify a subsequent budget proposed by the Executive Board upon the same conditions as are provided in the subparagraph with respect to the original budget.

5.2.3. Subject to subparagraph 5.2.2., the budget adopted pursuant to this Paragraph

shall constitute the basis for determining each Unit Owner's assessments for Common Expenses and Limited Common Expenses and shall automatically take effect at the beginning of the fiscal year for which it is adopted.

5.3. Assessment of Common Expenses. Assessments shall be made no later than thirty (30) days after the budget is adopted except that the first assessment shall be made no later than sixty (60) days after the first conveyance of a Unit to a Purchaser.

5.4. End of Fiscal Year. Within ninety (90) days after the end of each fiscal year for which a Common Expense assessment was made, the Executive Board shall prepare and deliver to all Unit Owners and Eligible Mortgage Holders, and to each Mortgagee requesting in writing the same, an itemized accounting of the Common Expenses for such fiscal year actually incurred and paid, together with a tabulation of the amount collected pursuant to the budget adopted by the Executive Board for such fiscal year.

5.5. Reserves. The Executive Board shall build up and maintain a reasonable reserves for working capital including a general operating reserve fund for current Common Expenses (the "Working Capital Fund") and a reserve fund for contingencies, replacements, capital improvements and other items which cannot be expected to occur on a regular basis (the "Reserve Fund"). However, nothing contained herein shall limit, preclude or impair the establishment of additional funds by the Association so long as the amount credited to, and debited from, any such additional funds are designated for specified purposes authorized by the Condominium Documents. The Working Capital Fund, Reserve Fund and such other funds shall be conclusively deemed to be common funds of the Association and shall be deposited in a special account with a lending institution, the accounts of which are insured by an agency of the United States of America. Neither the Executive Board nor the Treasurer shall commingle in the books and records of the Association any amounts deposited into the Reserve Fund, the Working Capital Fund or such other funds. Extraordinary expenditures not originally included in the annual budget which may become necessary during the year shall be charged first against such reserves. If the reserves are deemed by the Executive Board to be inadequate for any reason, including nonpayment of any Unit Owner's assessment, the Executive Board may at any time levy a further assessment which, depending on whether the reserve is for the benefit of all the Units or fewer than all the Units, shall be assessed against all the Unit Owners according to their respective Common Expense Liabilities or only against the Unit Owners benefitted according to their respective Common Expense Liabilities as between themselves, and which may be payable in a lump sum or in installments as the Board may determine.

5.6. Further Assessments. Subject to Paragraph 5.10., the Executive Board shall give notice to all Unit Owners and Eligible Mortgage Holders of any further assessments on Unit Owners for Common Expenses or Limited Common Expenses accompanied by a statement in writing giving the amount and reasons therefor, and such further assessment shall, unless otherwise specified in the notice, and subject to Paragraph 5.9., become effective with the next monthly payment which is due after the delivery of such notice of further assessment. All Unit Owners so notified shall be obligated to pay the adjusted monthly amount or, if such further assessment is not payable in installment, the amount of such assessment.

In addition, the Association shall have the right to levy reasonable fines for violations of the Declaration, these By-Laws and the Rules and Regulations of the Association, and may charge a Unit Owner legal fees and costs related to the enforcement of the provisions of the Declaration, By-Laws and Rules and Regulations.

5.7. Initial Capital Payment. The Declarant, as the agent of the Executive Board, will collect from each initial Purchaser at the time of settlement an "initial capital payment" (and not as a credit against the Purchaser's liability for Common Expenses) equivalent to twice the estimated monthly assessment for Common Expenses and Limited Common Expenses, if any, for such Purchaser's Unit. The Declarant will deliver the funds so collected to the Executive Board to provide the necessary working capital for the Association unless the Declarant has previously made the "initial capital payment" with respect to said Unit, in which case the Purchaser must reimburse the Declarant for such "initial capital payment" to the Association, which the Association shall credit to the account of the Unit Owner who is such Purchaser of a Unit from Declarant. Such funds may be used for certain prepaid items, initial equipment, supplies, organizational costs and other start-up costs, and for such other purposes as the Executive Board may determine. The Declarant must pay the "initial capital payment" to the Association for unsold Units in each portion or phase of the Condominium created by the Declaration no later than sixty (60) days after the first Unit in that portion or phase of the Condominium shall be conveyed to a Purchaser so that the "initial capital payment" shall be made for every Unit in that phase or portion within sixty (60) days after the first Unit in that phase or portion is conveyed to a Purchaser.

5.8. Effect of Failure to Prepare or Adopt Budget. The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay his allocable share of the Common Expenses as herein provided whenever it shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

5.9 Rejection of Budget; Limitation of Expenditures. In the event of a rejection of a proposed budget, the Executive Board shall prepare a revised budget, which such revised budget shall be subject to the same procedures as set forth above for the original proposed budget.

5.10. Limitations on Expenditures. The power of the Executive Board to expend funds, incur expenses or borrow money on behalf of the Association is subject to the requirement that the consent of the Owners of Units to which are allocated at least two-thirds (2/3) of the Votes in the Association shall be required to borrow any sum in excess of One Thousand Dollars ($1,000.00) and to expend funds or incur expenses that it is reasonably anticipated will cause the aggregate amount of all expenses in the budget (including reserves) to be exceeded by more than ten percent (10%) of such aggregate amount after taking into account any projected increases in income.

5.11. Accounts; Audits. All sums collected by the Executive Board with respect to assessments against the Unit Owners or from any other source may be commingled in a single fund or held for each Unit Owner in accordance with his respective Common Expense Liability notwithstanding Paragraph 5.5. All books and records of the Association shall be kept under the direction of the Treasurer or the Manager and in accordance with customary accounting principles and practices.

5.12. Payment Obligations. Each Unit Owner shall pay to the Association or its authorized representative on the first day of each month, or on such other date that the Association may determine in writing, (1) one-twelfth (1/12) of the Common Expenses including Limited Common Expenses, assessed on an annual basis against his Unit in the proportions required in Paragraph 6 of the Declaration and (2) all special assessments, any other sums duly levied against the Unit pursuant to the Declaration, these By-Laws or the Act. If for any reason the Association shall revise the annual budget of the Association in accordance with these By-Laws, and subject to Paragraph 5.10., whereby the Common Expenses or any component thereof may be increased, then commencing on the first day of the first month subsequent to the adoption of such revised budget each Unit Owner shall pay to the Association or its authorized representative one twelfth (1/12) of any such revised annual Common Expenses including Limited Common Expenses assessed against his Unit in the proportions required in Paragraph 6 of the Declaration.

5.13. Interest; Acceleration. Monthly condominium assessments shall be due on the first day of each month. If any such assessments are not paid by the 10th day of the month, a late fee of the greater of $10 or four percent (4%) of the amount due will be charged. Interest shall be imposed after the 10th day of the month on the principal amount unpaid from the date when due until paid at a rate of 18% per annum. If any Unit Owner is more than fifteen (15) days delinquent, a letter shall be sent to that Unit Owner giving said Unit Owner ten (10) days' notice prior to the institution of any collection proceedings or other legal proceedings.

5.14. Liens for Assessments. The total annual assessment levied against each Unit for Commons Expenses including Limited Common Expenses, special assessments, and any other sums duly levied against the Unit pursuant to the Declaration, these By-Laws or the Maine Condominium act, including all interest thereon and charges for late payment thereof and legal fees and other costs of collection thereof, and fines, penalties and fees as provided in the Declaration or these By-Laws shall, until fully paid, constitute a lien against the Unit in favor of the Association as provided in Section 1603-116 of the Maine Condominium Act. Such lien shall, with respect to annual assessments and revised annual assessments, be effective on the first day of each fiscal year of the Association with respect to the full amount of the annual assessments or revised annual assessments. With respect to special assessments and other sums duly levied including interest, charges for late payments, legal fees, costs of collection, fines, penalties and fees, such lien shall be effective on the first day of the next month which begins more than ten (10) days after delivery to the Unit Owner of notice of such special assessment or levy. Such lien is prior to all other liens and encumbrances on a Unit except (1) liens and encumbrances recorded before the recordation of the Declaration, (b) a first Mortgage recorded before or after the date which the assessment sought to be enforced becomes delinquent, and (c)

liens for real estate taxes and other governmental assessments or charges against the Units, provided, however, that such lien is not subject to the provisions of 14 M.R.S.A. Section 4651 and 18-A M.R.S.A. Section 2-201 et seq., as they or their equivalents may be amended or modified from time to time.

ARTICLE VI

Insurance

6.1. Policies. The Association shall maintain insurance in accordance with Section 1603-113 of the Act. Since the Units are separate structures, it is anticipated that each Unit Owner will provide their own insurance for their Units.

6.1.2. Flood Insurance. The Unit Owners shall provide for the flood insurance for their respective Units.

6.1.3. Liability Insurance. Liability insurance required under the Act shall also include all areas under supervision of the Association. Such policies shall be in an amount of at least Five Hundred Thousand Dollars ($500,000.00), or in such amount as the Federal National Mortgage Association may require.

6.2. Insurance Trustee. The Executive Board of the Association is hereby irrevocably appointed as attorney-in-fact for each Unit Owner and for each Mortgagee and Eligible Mortgage Holder and for each owner of any other interest in the Property for the purpose of purchasing and maintaining any common insurance described herein, the collection and appropriate disposition of the proceeds thereof with any bank or trust company authorized to do business in the State of Maine as trustee for all Unit Owners and their Mortgagees as their respective interests may appear (the "Insurance Trustee"), to hold any insurance proceeds in trust for disbursement as provided in Paragraph 6.3., the negotiation of losses and execution of releases of liability, and the execution of all documents and the performance of all other acts necessary to accomplish such purposes.

6.3. Losses; Adjustment and Payment; Insurance Trustee. Any loss covered by the insurance policies described in Paragraph 6.1. shall be adjusted with the Association by its Executive Board, but the insurance proceeds for said loss shall be payable to the Insurance Trustee designated for that purpose as provided in subparagraph 6.2., or otherwise to the Association, and not to any Mortgagee. The Insurance Trustee or the Association shall hold any insurance proceeds in trust for Unit Owners, Mortgagees and other lien holders as their interests may appear. Subject to the provisions of Paragraph 6.2. and subparagraph 7.2.3., the proceeds shall be disbursed first for the repair or restoration of the damage to the Property, and Unit Owners, Mortgagees and other lien holders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the damaged Common Elements and Units have been repaired or restored, the decision has been made not to repair or restore the damage as provided in Paragraph 7.1., or the Condominium is terminated.

6.4. Memoranda, Cancellation, Additional Required Provisions. All insurers that shall issue an insurance policy or policies under this Article shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit Owners or Mortgagee. No such insurer issuing a policy may cancel (including cancellation for non-payment of premium), substantially modify or refuse to renew such policy or policies until twenty (20) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, the managing agent, each Unit Owner and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

ARTICLE VII

Repair and Reconstruction after Fire or Other Casualty

7.1. When Repair and Reconstruction are Required. In the event of damage to or destruction of all or any part of the Property as a result of fire, other casualty or the exercise of the power of eminent domain, the Executive Board on behalf of the Association shall promptly arrange for and supervise the prompt repair, replacement and restoration thereof. Such repair or restoration shall be substantially in accordance with this Declaration, the Plats and Plans and the original plans and specifications therefore unless (a) the Condominium is terminated, or (b) repair, replacement or restoration would be illegal under any state or local health, safety, land-use or environmental statute, code or ordinance, or (c) eighty percent (80%) of the Unit Owners and the Eligible Mortgage Holders holding Mortgages on Units to which are allocated at least fifty-one percent (51%) of the Votes in the Association vote not to repair, restore or replace the damaged or destroyed Property, and such decision is approved by every Owner of a Unit or assigned or allocated Limited Common Element, which will not be repaired, replaced or restored, and by all Eligible Mortgage Holders of all Mortgages thereon.

7.2. Procedure for Reconstruction and Repair. If repair, replacement or restoration shall be required pursuant to Paragraph 7.1.:

7.2.1 Cost Estimates. The Executive Board shall promptly obtain reliable and detailed estimates of the cost of repairing and restoring such portion substantially in accordance with this Declaration, the Plats and Plans and original building plans and specifications therefore unless other action is approved by at least sixty-seven percent (67%) in voting interest of the Unit Owners and the Eligible Mortgage Holders holding Mortgages on Units which are allocated at least fifty-one percent (51%) of voting interest in the Association. Such costs may also include professional fees and premiums for such bonds as the Insurance Trustee may determine to be necessary.

7.2.2. Assessments. If the net proceeds of insurance, if any, are not sufficient to defray such estimated costs of reconstruction, repair, replacement and reconstruction, or if upon

completion of reconstruction and repair the funds for the payment of the costs thereof are insufficient, the amount necessary to complete such reconstruction and repair may be obtained from the appropriate reserve for replacement funds, and any such excess costs shall be deemed a Common Expense, and a special assessment therefor shall be levied by the Association.

7.2.3. Construction Fund and Disbursement. The proceeds of insurance collected on account of the casualty, and the sums received by the Association from collections of assessments against Unit Owners pursuant to subparagraph 7.2.2. on account of such casualty or taking, shall constitute a construction fund which shall be held in trust by the Insurance Trustee or Association as provided in Paragraph 6.2. and disbursed in payment of the costs of reconstruction and repair in a manner which would normally be used by any prudent financial institution advancing construction funds. Any holder of a first mortgage shall have the right to inspect building plans, construction schedules and contractors.

7.3. Damage or Destruction; No Repair or Replacement. If the entire Condominium is not repaired or replaced:

7.3.1. The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium as determined by the Executive Board or Architect;

7.3.2. The insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners and Mortgagees of those Units, as their insurable interests may appear, and the Owners and Mortgagees of the Units to which those Limited Common Elements were assigned or allocated, as their insurable interests may appear; and

7.3.3. The remainder of the proceeds shall be distributed to all the Unit Owners and Mortgagees, as their insurable interests may appear, in proportion to their respective Common Element Interests or the Common Element Interests subject to their respective Mortgages.

7.3.4. If the Unit Owners and their Mortgagees vote not to rebuild any Unit, that Unit's entire Allocated Interest shall be automatically reallocated upon said vote as if the Unit had been condemned, and the Association shall prepare, execute and record an amendment to this Declaration reflecting the reallocations. Notwithstanding any provision of this Article VII to the contrary, Section 1602-118 of the Act governs the distribution of insurance proceeds if the Condominium is terminated.

7.4. Mortgagee Priority. No provision of the Condominium Documents shall be deemed or construed to give a Unit Owner, or any other person, priority over the rights of any Eligible Mortgage Holder pursuant to its Mortgage in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Common Elements, or both.

ARTICLE VIII

Records of Information

8.1. Title. Every Unit Owner shall promptly cause to be duly recorded the deed, lease, assignment, or other conveyance to him of his Unit or other evidence of his title thereto and file such evidence of his title with the Executive Board through the Secretary or Manager. The Secretary shall maintain such information in the record of ownership of the Association.

8.2. Availability of Information. The Association shall make available at the Condominium to Unit Owners, lenders and the holders, insurers and guarantors of the first Mortgage on any Unit, for inspection at the Property, current copies of the Declaration, these By-laws and the rules and regulations governing the Property and other books, records and financial statements of the Association. The Association shall also make available to Eligible Mortgage Holders, Eligible Insurers, Unit Owners and prospective purchasers at the cost of the person requesting the same current copies of the Declaration, these By-Laws and the rules and regulations governing the Property.

ARTICLE IX

Amendments

9.1 General Requirements; Consent of Declarant or Holders of Mortgages; Curative Amendments to Bylaws. Except as otherwise provided in any one or more of these Bylaws, the Declaration or the Act, these Bylaws may be amended by the approval of a majority of the aggregate votes in the Association, cast by Unit owners in person or by proxy at a duly convened meeting at which a quorum is present; provided, however that no amendment seeking (i) to abandon, partition, subdivide, encumber, sell or transfer any portion of the Common Elements, or (ii) to abandon or terminate the condominium form of ownership of the Property, except as otherwise provided in the Declaration, shall be effective without the prior written approval of all eligible mortgage holders. Notwithstanding the foregoing, amendments of a material nature must be approved by Unit owners entitled to cast at least seventy-five percent (75%) of the aggregate votes in the Association and by eligible mortgage holders representing at least seventy-five percent (75%) of the votes of Units subject to mortgages held by eligible mortgage holders. A change to any of the following would be considered material:

(a) voting rights;
(b) assessments, assessment liens, or subordination of assessment liens;
(c) reserves for maintenance, repair and replacement of Common Elements;
(d) responsibility for maintenance and repairs;
(e) reallocation of interests in the Common or Limited Common Elements, or rights to their use;
(f) boundaries of any Unit;
(g) convertibility of Units into Common Elements or vice versa;
(h) expansion or contraction of the Condominium; or the addition, annexation or withdrawal of property to or from the Condominium;

(i) insurance or fidelity bonds;
(j) leasing of Units;
(k) restriction of a Unit owner's right to sell or transfer the owner's Unit;
(l) restoration or repair of the Condominium (after a hazard damage or partial condemnation) in a manner other than that specified in the condominium documents;
(m) any action to terminate the legal status of the Condominium after substantial destruction or condemnation occurs; or
(n) any provisions that expressly benefit mortgage holders, insurers, or guarantors.

9.1.2 Additionally, if any amendment is of a non-material nature, or in the judgment of the Executive Board, is necessary to cure any ambiguity or to correct or supplement any provision of these Bylaws that is defective, missing or inconsistent with any other provision herein, or with the Act or the Declaration, the approval of an eligible mortgage holder may be assumed when such a mortgage holder fails to submit a written response to any written proposal for an amendment within thirty (30) days after the proposal is made, and the Executive Board, acting through the President, may effect an appropriate amendment without the approval of the Unit owners.

9.2. Amendments to the Declaration. The Declaration may be amended pursuant to the provisions of the Act and the Declaration. The President is empowered to prepare and execute any amendments to the Declaration on behalf of the Association and the Clerk is empowered to attest, seal with the Association's corporate seal and record any such amendments on behalf of the Association.

ARTICLE X

Corporate Seal

10.1. Seal. The Association may have a seal in circular form having within its circumference the words:

Blue Heaven Condominium
2020
MAINE

ARTICLE XI

Notices

11.1. To Unit Owners. All notices, demands, bills, statements or other communications affecting the Condominium shall be given to Unit Owners by the Association in writing and shall be deemed to have been duly given if delivered personally securing a receipt therefor, or sent by United States mail, postage prepaid, or if such notifications are of a default or lien, sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the Unit Owner at the address which the Unit Owner shall designate in writing and file with the

Secretary of the Association, or if no such address is so designated, the address of the Unit of which such Unit Owner is the record owner thereof.

11.2. To the Association. All notices, demands, statements or other communications affecting the Condominium given by the Unit Owner to the Association shall be in writing and shall be deemed to have been duly given to the Association if delivered personally securing a receipt therefor, or sent by United States mail, postage prepaid, return receipt requested, addressed to the Association at the principal office of the managing agent, or if there shall be no managing agent, then to the Secretary of the Association at the address of the Unit of which the Secretary is the record Unit Owner thereof.

11.3. To Eligible Mortgage Holder, etc. All notices demands, statements or other communications affecting the Condominium given by the Association to any Eligible Mortgage Holder and Eligible Insurer shall be in writing and shall be deemed to have been duly given by the Association if delivered personally securing a receipt therefor, or sent by United States mail, postage prepaid, addressed to the Eligible Mortgage Holder at the address identified pursuant to Paragraph 18(a) of the Declaration and to the Eligible Insurer at the address provided.

ARTICLE XII

Miscellaneous

12.1. Remedies Cumulative. All rights, remedies and privileges granted to the Executive Board or a Unit Owner pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to such party hereunder or by any instruments or documents incorporated herein by reference or at law or in equity.

12.2. Captions. The headings in these By-Laws are for purposes of reference only and shall not limit or otherwise affect the meaning hereof. Any tables of contents or indices attached to these By-Laws are for purposes of reference and convenience only and shall neither limit nor otherwise affect the meaning hereof nor be deemed as part of these By-Laws. References in these By-Laws to Articles, Paragraphs, Subparagraphs and Schedules without references to the document in which they are contained are references to these By-Laws. Schedules are attached to and are an integral part of these By-Laws. Any Exhibits are attached to these By-Laws for purposes of identification only and shall not be deemed as part of these By-Laws.

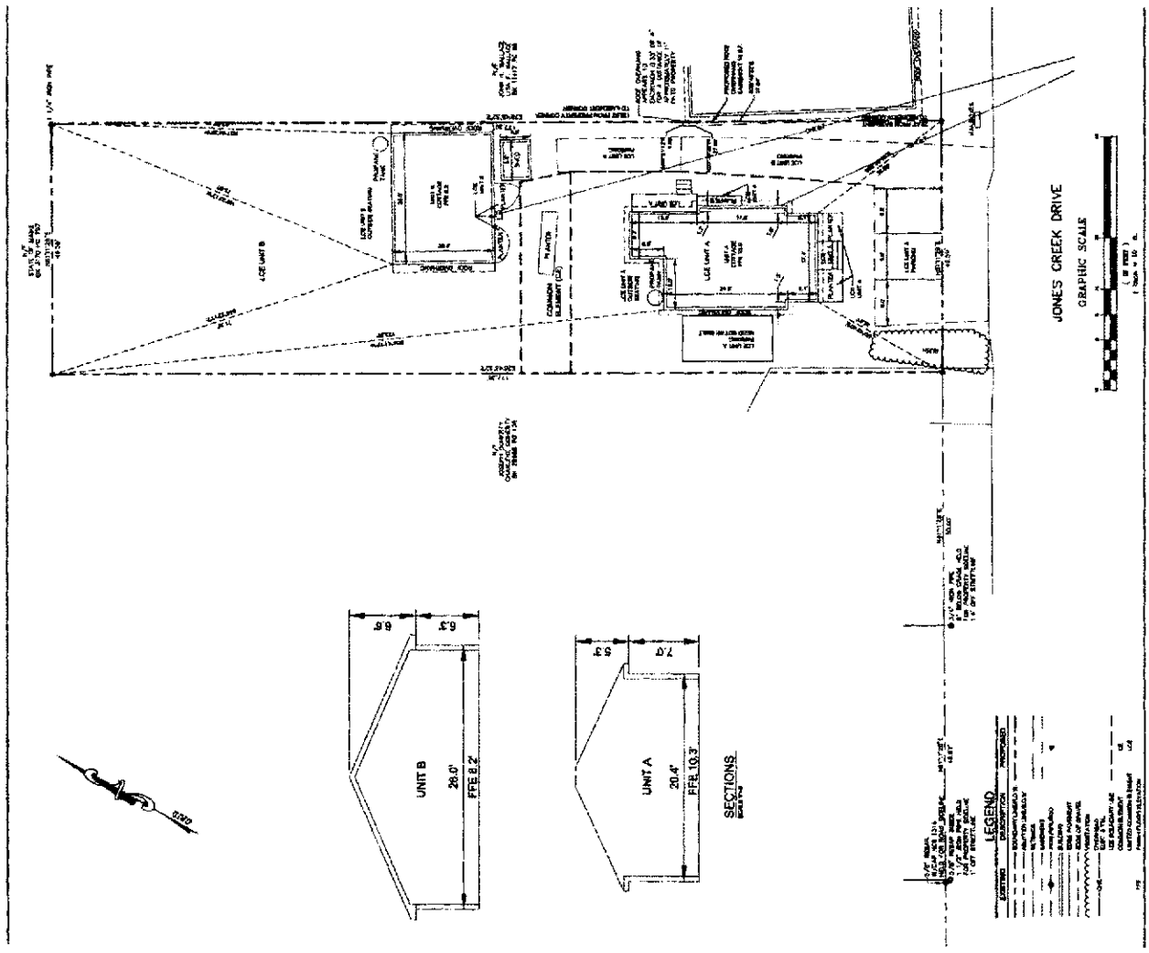
12.3. Gender, Number, Etc. The use of the singular number in these By-Laws shall be deemed to include the plural, the plural the singular, and the use of any one gender shall be deemed applicable to all genders.

12. 4. Severability. The invalidity of any provisions of these By-Laws shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder o

these By-Laws, and in such event, all of the other provisions of these By-Laws shall continue in full force and effect as if such invalid provisions had never been included herein.

THE END

EXHIBIT D


JONES CREEK DRIVE
GRAPHIC SCALE
LEGEND
SECTIONS
UNIT B
26.0'
FFE 8.2'
UNIT A
20.4'
FFE 10.3'

DOC :56223 BK:37158 PG:265
RECEIVED - RECORDED, CUMBERLAND COUNTY REGISTER OF DEEDS
09/10/2020, 08:06:48A
Register of Deeds Nancy A. Lane E-RECORDED

