

Each Unit owner of a condominium Unit shall, promptly following the execution of any written lease of a condominium Unit, forward a true copy thereof to the Executive Board. The foregoing provisions of this paragraph shall not apply to an institutional lender in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure.

In the event a guest or tenant of a Unit fails to comply with the provisions of this Declaration, the Bylaws, Rules and Regulations or the lease, then, in addition to all other remedies which it may have, the Association may notify the Owner of such violation(s) and demand that the same be remedied through the Owner's efforts within a reasonable time after such notice in the judgment of the Directors. If such violation(s) is not remedied within said period, then the Owner shall thereafter, at his own cost and expense, immediately institute and diligently evict his tenant or guest on account of such violation(s). In the event the Owner fails to so act promptly, then the Board shall have the right, but not the duty, to institute and prosecute such election as attorney-in-fact for the Owners and at the Owner's sole cost and expense, including all legal fees incurred. Said costs and expenses shall be due and payable upon demand by the Association and shall be deemed to constitute a lien on the particular Unit involved, and collection thereof may be enforced by the Executive Board in the same manner as the Board is entitled to enforce collection of service charges.

**Section 7.3 Liability for Assessments, Etc.** In the transfer of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments and service charges, interest and costs of collection outstanding at the time of the grantor's transfer, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee or proposed purchaser under a purchase and sale contract upon written request and upon payment of such fee as may be set by the Directors may obtain a statement from the Executive Board setting forth the amount of unpaid, assessments, and service charges against the Unit, and the grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for any, assessments, and service charges arising before the statement date in excess of the amount therein set forth.

**Section 7.4 Common Elements.** No Unit owner shall execute any deed, mortgage, or other instrument conveying or mortgaging title to his Unit without including therein the interests in Common Elements appurtenant thereto, it being the intention hereof to prevent any severance of such combined ownership. Any such deed, mortgage or other instrument purporting to affect one or more of such interests, without including all such interests, shall be deemed and taken to include the interest or interest so omitted, even though the latter shall not be expressly mentioned or described therein.

## ARTICLE 8 AMENDMENTS

**Section 8.1 General Requirements: Consent of Declarant or Holders of Mortgages; Curative Amendments to Bylaws.** The Bylaws may be amended only by

the approval of all (100%) 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 and by eligible mortgage holders representing at least fifty percent (50%) 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 and 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.

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.

**Section 8.2 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 9 EXECUTION OF DOCUMENTS

**Section 9.1 Execution of Documents.** Unless the Executive Board shall otherwise generally or in any specific instance provide: (a) any bill, note, check, or negotiable instrument may be executed or endorsed in the name and on the behalf of the Association by the President or Treasurer, acting singly, and (b) any other instruments, documents, deeds, bills of sale or other writings of whatever nature shall be executed in the name and on behalf of the Association by the President or Treasurer, acting singly, and either officer may seal, acknowledge and deliver the same.

## ARTICLE 10 GENERAL PROVISIONS

**Section 10.1 Severability.** The provisions of these Bylaws shall be deemed independent and severable and the invalidity, partial invalidity or unenforceability of any provision herein or portion hereof shall not affect the validity or enforceability of any other provision or portion thereof unless the deletion of such invalid or unenforceable provision shall destroy the uniform plan for development and operation of the condominium project which the Declaration (including the Plats and Plans and these Bylaws) is intended to create.

**Section 10.2 Conflicts.** The Act and the Declaration shall control in the event of any conflict between the provisions thereof and the provision of these Bylaws. The Act, the Declaration and these Bylaws shall control in the case of any conflict between the provisions thereof and the provisions of any rules and regulations.

**Section 10.3 Notice.** All notices or other communications required or permitted under these Bylaws shall be in writing and shall be deemed to have been given when deposited in the Unit owner's (or if applicable, the eligible mortgage holder's) mailbox, if

personally delivered. Alternatively, such notice shall be deemed given on the second business day after mailing, if mailed by first class mail, postage prepaid (or as the Act may otherwise permit),

(a) if to a Unit owner, at the mailing address of the Unit of such Unit owner, or  
(b) if the Association or the Executive Board, at the principal office of the Association or at such other address as shall be designated by notice in writing to the Unit owners pursuant to this Section. If a Unit is owned by more than one person, delivery of notice to one of said persons pursuant to this Section shall constitute notice to all such owners.

**Section 10.4 Headings.** The headings preceding the various Sections of these Bylaws and the Table of Contents are intended solely for the convenience of readers of the Bylaws and in no way define, limit or describe the scope of these Bylaws or the intent of any provision thereof.

**Section 10.5 Gender.** The use of the masculine gender in these Bylaws shall be deemed to include the feminine and neuter genders, and the use of the singular shall be deemed to include the plural, and vice versa, whenever the context so requires.

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**AMENDMENT TO THE**  
**DECLARATION OF**  
**CASCO BAY CONDOMINIUM**

This Amendment to Declaration of Casco Bay Condominium is made by Casco Bay Ventures, a Maine corporation with a place of business in the City of Falmouth, County of Cumberland and State of Maine (“Declarant”).

WHEREAS, Declarant previously submitted certain real estate to the provisions of the Maine Condominium Act, as described in Declaration of Casco Bay Condominium, dated August 22, 2001, and recorded in the Cumberland County Registry of Deeds in Book 16664, Page 127 (the “Declaration”); and

WHEREAS, pursuant to Section 9(L) of the Declaration, Declarant reserved the right to build additional structure(s), which may include the construction of up to five (5) additional Units (“Phase II”), upon certain real estate described in Exhibit B of the Declaration (“Phase II Real Estate”); and

WHEREAS, pursuant to Section 9(M), Declarant reserved the right to designate the location of all exclusive off-street parking spaces and to relocate the exclusive off-street parking spaces provided to Units #A1, #A2 and #A3 to the “Parking Area” identified on the Plats and Plans described in the Declaration; and

WHEREAS, Declarant has constructed Phase II upon the Phase II Real Estate and desires to exercise certain development rights reserved pursuant to the Declaration; and

NOW THEREFORE, Declarant hereby amends the Declaration as follows to reflect the Declarant’s exercise of such reserved development rights, pursuant to the requirements of 33 M.R.S.A. §§ 1602-109(f) and 1602-110(a):

1. The Plat and the Plans of the Declaration are hereby amended to include only the following plans and/or surveys, which shall hereafter be collectively referred to as the “Plat and the Plans”:

A. Survey entitled “Existing Conditions Plan of Lots on Fore and Waterville Streets,” prepared by Back Bay Boundary, Inc., dated \_\_\_\_\_, 2003, recorded herewith in the Cumberland County Registry of Deeds;

B. Survey entitled “Standard Boundary Survey of #1-3 St. Lawrence Street,” prepared by Back Bay Boundary, Inc., dated \_\_\_\_\_, 2003, recorded herewith in the Cumberland County Registry of Deeds;

C. Plan entitled “Vertical and Horizontal Boundaries, Casco Bay Condominium,” prepared by Nemmers & Associates, Architects, recorded in the

Cumberland County Registry of Deeds in Plan Book 201, Page 331; and

D. Plan entitled “Casco Bay Condominium, Building “C”, 7-11 Waterville Street,” prepared by TFH Architects, dated \_\_\_\_\_, 2003, recorded herewith in the Cumberland County Registry of Deeds.

2. Exhibit A to the Declaration is hereby amended to provide as follows:

**EXHIBIT A**

Those parcels of land located within the area enclosed by the “Property Line(s)” as shown on two surveys, one entitled “Existing Conditions Plan of Lots on Fore and Waterville Streets,” prepared by Back Bay Boundary, Inc., dated \_\_\_\_\_, and the second entitled “Standard Boundary Survey of #1-3 St. Lawrence Street,” prepared by Back Bay Boundary, Inc., dated \_\_\_\_\_, both recorded herewith in the Cumberland County Registry of Deeds.

For Grantor’s source of title reference is made to a Warranty Deed from Kevin M. Learey and Nancy A. Learey to Grantor herein, dated March 12, 2001 and recorded in the Cumberland County Registry of Deeds in Book 16088, Page 27, and a Deed of Sale of Personal Representative from Lawrence P. Davis and Marie Davis Sweatt, as Co-Personal Representatives of the Estate of John J. Davis, to Grantor herein, dated October 6, 2000 and recorded in the Cumberland County Registry of Deeds in Book 15771, Page 36.

3. Section 2 of the Declaration is hereby amended as follows:

2. **Creation of Units.** Declarant hereby creates ten (10) units, #A1, #A2 and #A3 (located in “Building A” as identified on the Plat and the Plans), #B1, #B2, and #B3 (located in “Building B” as identified on the Plat and the Plans), and #C1, #C2, #C3 and #C4 (located in “Building C” as identified on the Plat and the Plans (individually the “Unit” and collectively the “Units”). The building identified on the Plat and the Plans as “Building A” is generally located at 25 Fore Street, Portland, Maine (“Building A”), the building identified on the Plat and the Plans as “Building B” is generally located at 3 St. Lawrence Street, Portland, Maine, and the building identified on the Plat and the Plans as “Building C” is generally located at 7-11 Waterville Street, Portland, Maine (individually the “Building” and collectively the “Buildings”). The location, boundaries and identifying number of the Units and the Buildings are shown on the Plat and the Plans referred to in Section 1 hereof.

4. Section 3 of the Declaration is hereby amended as follows:

3. **Unit Numbers and Boundaries.** Reference is made to the Plat and the Plans for the identification number of each Unit and the depiction of the

location and dimensions of each Unit's boundaries.

The vertical boundaries of each Unit are formed by the planes of the outermost finished surfaces of the exterior walls of the Building containing that Unit and the centerline of the wall between each Unit and the common stairways and/or lobbies, extending vertically to the upper and lower horizontal boundaries. The horizontal boundaries of each Unit are formed by the planes of the centerline of the floor/ceiling construction between the Units; except that the upper horizontal boundary for Units #A3, #B3 and #C4 is the centerline of the ceiling construction above said Units not to include an unfinished loft area, the lower horizontal boundary for Units #A1 and #B1 is the plane of the centerline of the floor construction between said Units and the basement, the lower horizontal boundary for Unit #C1 is the plane of the centerline of the floor construction between said Unit and the garage, and Unit #C4 includes within its boundaries a portion of "STAIR 1" as indicated on the Plats and the Plans. Each Unit consists of all portions of the Building within the aforesaid boundaries.

The provisions of Section 1602-112 of the Act shall govern relocation of boundaries between any two Units. The subdivision of a Unit into two or more units is prohibited.

5. Section 6 of the Declaration is hereby amended as follows:

6. **Parking.** Units #C1, #C2 and #C3 shall each be allocated the exclusive use of two (2) off-street parking spaces, with one such space for each unit being located in the garage of Building C, as identified on the Plat and the Plans. Unit #C4 shall be allocated the exclusive use of two (2) off-street parking spaces, with both such spaces for said unit being located in the garage of Building C, as identified on the Plat and the Plans. Units #B1, #B2, #B3, #A1, #A2 and #A3 shall each be allocated the exclusive use of one (1) off-street parking space, as identified on the Plat and the Plans.

No commercial vehicles, trailers, motor homes, or trucks with gross weight of six thousand (6,000) pounds or more, shall be permitted within any of the said off-street parking spaces.

The "Parking Area" and the designated off-street parking spaces for Units #A1, #A2, #A3, #B1, #B2 and #B3, as indicated on the Plats and Plans, shall be treated as a Limited Common Element of said units for maintenance purposes, meaning that units #A1, #A2, #A3, #B1, #B2 and #B3 shall be equally liable for the maintenance, repair and upkeep of the "Parking Area" and said designated off-street parking spaces. The five (5) designated off-street parking spaces located in the garage of Building C, and "Parking Area II" and the three (3) designated off-street parking spaces located thereon, shall be treated as a Limited Common Element of the Units contained in Building C, meaning that Units #C1, #C2, #C3

and #C4 shall be equally liable for the maintenance, repair and upkeep of Parking Area II and said designated off-street parking spaces.

6. Section 21 of the Declaration is hereby amended as follows:

21. Name and Address. The name of the Condominium is Casco Bay Condominium, and the Condominium is located at 25 Fore Street, 3 St. Lawrence Street, and 7-11 Waterville Street, in Portland, Maine.

7. This Amendment to the Declaration of Casco Bay Condominium shall become effective when it and the Plat and the Plans referred to herein have been recorded.

WITNESS its hand and seal on \_\_\_\_\_, 2003.

CASCO BAY VENTURES

\_\_\_\_\_  
Witness By: Waldon M. Geyer  
Its duly authorized Treasurer

State of Maine  
County of Cumberland, ss. \_\_\_\_\_, 2003

Personally appeared the above-named Waldon M. Geyer and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law  
Printed Name:  
My commission expires:





July 17, 2001

Kandice Talbot, Planner  
Portland Planning Office  
Portland, Maine

Re: Casco Bay Ventures Project  
25 Fore Street

Dear Kand:

I am enclosing with this letter the revised drawings on the housing project at 25 Fore (corner of Waterville St. and Fore). We have made some changes to the project in order to answer the questions and comments you and Marge discussed with us at our last meeting. The changes are as follows:

- 1) We had the boundary survey rechecked and the Surveyor confirms that the correct area of the Site is below the 9,000 square foot threshold which will support (8) units. We therefore have redesigned the Project to accommodate (7) units, (3) existing and (4) in the new building to be constructed on the Waterville Street portion of the site.
- 2) The parking requirement also changes, and as noted on the plan the requirement is for (11) spaces. We are proposing (3) of those spaces on the Property at 3 St. Lawrence Street, and (8) of the spaces on this site.
- 3) The units are now located at one unit per floor.
- 4) An elevator has been added to the project and will connect all floors with the garage.
- 5) Because of the reduced parking requirement we were able to locate the spaces such that the existing masonry wall to the Northwest need not be reconstructed. The new grading will be approximately the same as now exists on both sides of the wall so there is no need to reconstruct it.
- 6) The front entry porch has been redesigned so as to conform with the 50 sq.ft. allowable in the setback area. Please note that the actual face of the building is set 2 feet behind the setback line so as to allow the projection of the bay windows within the building envelope space.
- 7) The garage door wall was redesigned so that there is no potential conflict with setbacks. The building now stops at the setback line and a horizontal gate will be installed across the driveway to a freestanding post on the far side of the drive.

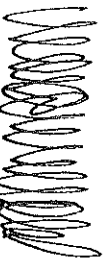
The points below refer to the comments of Steve Bushy in his May 30<sup>th</sup> letter.

- 1) **Stormwater run-off:** The existing site, in the area of the proposed building, is a hard packed dirt and gravel area that directs most rainwater quickly to the curbside and subsequently to the storm sewer. In addition, the area to the rear of the proposed building is now a dirt bank which spills any rainwater directly to the hard packed lot below. There is very little existing retainage of any rainwater on the existing site. Our proposal will substitute building roof and parking areas for the existing hard pack areas with little change to the water flow from these areas. However our proposal will even out the grade, and install grass and other planting materials to the rear and northwest side of the building. These measures will have the effect of absorbing some rainwater and slowing the speed of the drainage from these areas to the street. We therefore are suggesting that our proposal will not have an appreciable effect of the flow of rainwater to the curb.

The catch basins at the corner of Waterville and Fore into which this surface water eventually flows are, like every other catch basin in this area of Munjoy Hill, are hooked to the combined sewer.

- 2) **Construction easement:** Because of the comments noted in item #5 above a construction easement will not be required.
- 3) **Sidewalk reconstruction:** The entire sidewalk will be removed both for utility work and because the existing walk is a combination of materials (concrete and blacktop) and widths. We are proposing that between the driveways the sidewalk will be brick, that the driveways be blacktop, and since both driveways are close (within a couple feet) to the side lot lines, we would install an asphalt walk to mesh with the existing blacktop walks on either side, rather than install a thin strip of brick to the lot line.
- 4) **Driveway width @ Northwest driveway:** The redesigned driveway at the Northwest corner now accommodates only one car and as such the width should be considered as any other one car driveway, which is the width of the drive, in this case 11ft, rather than the wider dimension noted in the Traffic Design Standard which assumes a driveway serving the entire building.
- 5) **Erosion control:** The requirement for the installation of silt sacks on the catch basins at the corner of Waterville and Fore Street will be included in the specifications.
- 6) **Erosion Control:** The requirement for the contractor to keep the street clean of mud and debris will be included in the specifications.
- 7) **Retaining wall condition:** The condition of the existing retaining wall at the southeast corner of the site will be analyzed by the owner and the Architect after the initial earthwork is completed, the portion of the wall removed as shown, and the remaining wall exposed. A decision as to whether the wall should be replaced or repaired will take place at that point.
- 8) **Erosion control:** Because the second parking space is not being inserted into the landscape here the grade can be more gradual from the end of the parking space to the corner of the building. With this more gradual grade, we don't believe that erosion control blankets will prove necessary.
- 9) **Spot Grades:** Additional spot grades will be added to the drawing to ensure that the rain water will flow down the drive and out to the street, and not flow down the sidewalk.
- 10) **Tree well:** A detail to provide a non-brick area around the existing tree will be included on the drawings.
- 11) **Sewer connection:** At the present time the proposal calls for using the existing sewer connection on the site. There appear to be no obstacles to doing so at this time. The situation will be reviewed at the time of construction and if problems are present then they will be addressed with the Portland Sewer Department at that time.
- 12) **Water Mains:** The Portland Water District thought it would be best if the two services did not come off the same line.
- 13) **Gas:** Natural gas, which is available in Waterville Street, will be used for this project.
- 14) **St Lawrence St drainage:** The grade of the proposed lot will be the same as the grading for the existing lot so that the drainage to the street will be about the same with respect to slope and flow. There is a slight slope toward the street to accommodate the flow of water from the parking area. The width of the drive at this location will be the same as the existing width so that it can fit in between the existing posts and fencing now lining St. Lawrence Street.
- 15) **Fire escape:** The fire escape on the building at #3 St. Lawrence Street will be removed and all egress from the building will be internal.
- 16) **Fill Material Specifications:** The Appropriate MDOT specifications for fill and paving will be provided on the details.
- 17) **Geotechnical:** To date the Owner has not completed any geotechnical investigations regarding the underlying soils. There is a layer of uncontrolled fill over portions of the site where a foundation was filled in but this material will be removed and bearing will go to the virgin soil which is fairly well drained gravelly soil over ledge. There are no indications at this time that sub-standard soils exist within the building envelope.
- 18) **Elevations:** All elevations are included and the dormers indicated are consistent with the plans.

Sincerely,



William Nemmers

Copy: Wally Geyer