

**Digby Harbour Port Association  
By-laws**

**Revisions adopted Apr 24, 2019**

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## ARTICLE 1 - DEFINITIONS

### SECTION 1 - TITLE

1-1.01 The name of the Society shall be the Digby Harbour Port Association.

### SECTION 2 - DEFINITIONS AND INTERPRETATION

1-2.01 In this by-law:

"ASSOCIATION" or "SOCIETY" mean the Digby Harbour Port Association;

"BOARD" means the Board of Directors established under this by-law;

"BY-LAW" includes all articles in force as approved by the members from time to time;

COMMITTEE" means any Committee described in this by-law and includes any Committee established by the Directors;

"DHPA" means the Digby Harbour Port Association;

"DIRECTOR" means a person who is a member of the Board;

"DIRECTORS" mean the Board of Directors unless the context indicates otherwise;

"ELECTED OFFICER" means the Chairman, Vice-Chairman, Secretary or Treasurer as elected by the Board;

"HARBOUR MANAGER" means the Chief Executive Officer (CEO) and person hired responsible for the daily management of the Association;

"MEMBER" as provided for in Article 4 of this by-law;

"NOTICE" means the delivery of paper or electronic communication to the last known address, email account, or facsimile number of All Members appearing on the books of the Association, or if no address, email account, or facsimile number so appears then to such address, email account, or facsimile number as the Association may consider to be the most likely place to promptly reach Members;

"OFFICER" shall mean one of the Chairman, Vice-Chairman, Secretary or Treasurer;

"REGISTRAR" means the Registrar of Joint Stock Companies under the Nova Scotia Companies Act;

"SPECIAL RESOLUTION" means a resolution passed by not less than three-

fourths (3/4) of such members entitled to vote as are present in person at a general meeting of which notice specifying the intention to propose the resolution as a special resolution has been duly given.

“UNSOOUND MIND” means someone who has been declared by a doctor licensed to practice in the Province of Nova Scotia to be unable to manage their own financial affairs.

"VOTING MEMBER" as provided for in Article 4 of this by-law;

1-2.02 In the By-law, Rules and Regulations and special resolutions, the singular shall mean to include the plural, the word "person" shall include firms and corporations, and the masculine shall include the feminine and vice versa.

1-2.03 Where there is any reference made in the By-law, Rules and Regulations and any resolutions to any Statute or any part of it, such a reference shall also be deemed to include any amendments, re-enactment or successor legislation of that Statute as the case may be.

## ARTICLE 2 - HEAD OFFICE

### **SECTION 1 - HEAD OFFICE**

2-1.01 The head office of the Association shall be located at 150 Water Street, Digby, Nova Scotia.

## ARTICLE 3 - CORPORATE SEAL

### **SECTION 1 - CORPORATE SEAL**

3-1.01 The seal of the Association shall bear the name of The Digby Harbour Port Association and the year of incorporation of the Association and shall be in the form adopted by the Board from time to time.

3-1.02 The Seal of the Association shall be in the custody of the CEO, at the head office, and may be affixed to any document upon resolution of the Directors.

## ARTICLE 4 - MEMBERSHIP

### SECTION 1 - CLASSIFICATIONS OF MEMBERSHIP

- 4-1.01 The subscribers to the Memorandum of Association and such other persons as shall be admitted to Membership in accordance with this by-law, and none other, shall be Members of the Society (Association), and their names shall be entered in the Registry of Members accordingly.
- 4-1.02 For purposes of registration, the number of members of the Association is unlimited.
- 4-1.03 The following shall be admitted to membership in the Association: any individual over the age of 18 years who upholds the objects of the Association and agrees to abide by the by-law and the rules and regulations of the Association, if such applicant is accepted by the Board of Directors. The following, at their discretion, will be permanent members of the Association: the Town of Digby, the District of the Municipality of Digby, each of whom will appoint one representative.
- 4-1.04 Membership in the Association:
- (a) Voting Members shall be composed of individuals or corporations, who pay fees for vessel berthage greater than six (6) months in a calendar year; of individuals or corporations which pay annual fees for licenses to provide services to members and others on DHPA property; a representative of the Town of Digby; and a representative of the District of the Municipality of Digby. Only Voting Members may vote at Association meetings, or nominate members for office. Voting Members will include all Directors nominated and elected to the Board of the DHPA.
- 4-1.05 Corporations which are members shall appoint an individual who will represent them in all matters relating to membership in the Association and such individual and the corporation or organization represented by such individual shall have only one vote between them. An appointee will be added to the Registry of Members within 30 days of written notice from the corporation or organization. Corporations wishing to change their appointed representative will submit the name of the appointee to the Board for approval.
- 4-1.06 Unless provided for in this by-law, the criteria for admission as a Voting Member, and rights and obligations, with respect thereto, shall be determined by the Board. These requirements can be waived through motion at a duly called general meeting.

### SECTION 2 - APPLICATION FOR MEMBERSHIP

- 4-2.01 All applications for membership shall be presented in writing on a form provided by the Association in which the applicant agrees to comply with the by-law, and all rules and regulations of the Association. All members shall be deemed to have

received and to have read the by-law and the rules and regulations of the DHPA which are in force and to have agreed to abide by them. The applicant is not entered into the registry until confirmed by the Board and membership dues are received (if applicable).

### **SECTION 3 - APPLICATION PROCESS**

4-3.01 Applications for Membership shall be made in writing on the approved form with any required endorsements and with agreement to abide by the by-law, and rules and regulations.

4-3.02 Applications for Membership shall be dealt with as follows:

- (a) Upon being received by the DHPA Office, the application shall be reviewed by the Harbour Manager, and if it is complete in all aspects, the application will be presented to the Board at the next scheduled meeting.
- (b) If a majority of the Directors present at a duly called meeting approve the application, the applicant shall be approved and entered into the Registry of Members when membership dues are received. Entry of the name and address of any individual, corporation or organization into the Registry of Members shall constitute an admission to membership in the Association.

### **SECTION 4 - MEMBER RESIGNATION**

**4-4.01** (a) All members may make application to resign from the Association by giving notice in writing to the DHPA.

- (b) Death of a member shall be deemed to be resignation from the Association;
- (c) Any member in default of their membership fee(s) who fails to settle their account after reasonable notice shall be deemed to have resigned;
- (d) members who cease to qualify for membership under these this by-law shall be deemed to have resigned;

4-4.02 No refunds shall be made by the Board for resigning members.

4-4.03 Membership is not transferable. Mergers of two or more companies do not constitute greater than one membership for the remaining entity.

### **SECTION 5 - BEST EFFORTS**

4-5.01 All members shall use their best efforts in furthering the objects of the Association and in the enforcement of the by-law of the Association.

## **SECTION 6 - SUSPENSION OR EXPULSION OF MEMBERS**

4-6.01 The Directors may suspend or expel any member:

- (a) who has been convicted of an indictable criminal offence and has not obtained a pardon;
- (b) for non-payment of assessments, fees, or other amounts due the Association under the terms of this by-law;
- (c) who has failed to comply with a decision of:
  - (i) the Board of Directors;
  - (ii) for such other reasons as are set forth in this by-law, or in the Rules and Regulations of the Board.

4-6.02 If membership is discontinued, notice of the expulsion or suspension of the member, with the reasons specified, will be forwarded to the member.

## **SECTION 7 - TRANSFER OF MEMBERSHIP**

4-7.01 Membership in the DHPA is non-transferable.

4-7.02 When the shares of a corporate or company member are sold, the existing membership shall continue in force if

- (a) the company continues to meet the requirements for membership under this by-law;
- (b) meets its fee and any debt obligations to the DHPA; and
- (c) the member company representative continues to meet the requirements for membership in the DHPA.

For clarity when the assets of a company are sold and a new company is established or a new incorporation is undertaken, there must be an application for a new membership.

## **SECTION 8 - REINSTATEMENT OF MEMBERSHIP**

4-8.01 Any member suspended by a decision of the Board of Directors of the DHPA is reinstated after the suspended time period has elapsed, or before, if a majority of the Directors so vote.

4-8.02 Any member having been expelled for cause shall be eligible for membership only in the manner prescribed for new members, and only after the time within which the member is prohibited from applying, if any, has expired.

4-8.03 Where membership has been terminated by the Board and the member has been prohibited from reapplying for a period set out in the decision of the Board, that former member may not reapply to become a member until the period in question has expired.

## ARTICLE 5 - MEMBERSHIP FEES

### SECTION 1 - FEES

5-1.01 The Association shall set membership fees to be collected from members in amounts to be determined by the Board from time to time.

5-1.02 Unless otherwise indicated in this by-law, all membership fees are due to the Association upon notice thereof, net 30 days.

### SECTION 2- DUE DATES FOR FEES

5-2.01 Fees shall be paid monthly as invoiced within 30 days of the invoice date.

### SECTION 3 - NON PAYMENT OF FEES

5-3.01 If a member fails to pay any invoices issued by the Association, the Harbour Manager shall serve notice to the member that the invoices are to be satisfied by a stipulated date, the failure of which will result in the suspension of membership and removal of such member's name from the register. Such suspension remains in effect until such time as the member has satisfied outstanding invoices, until such member is reinstated by the Board.

5-3.02 If a member is suspended or terminated for failure to pay to the DHPA any amount owing, such amount shall remain a debt owing to the DHPA until paid, notwithstanding the suspension or termination of services or membership, and upon reapplication the applicant shall repay such debt as a condition precedent to such application being approved by the Directors.

5-3.03 Notwithstanding any suspension of membership, any such fees or accounts payable owing by a member to the DHPA shall, at all times, constitute a debt or debts of such Member to the DHPA.



## ARTICLE 6 - BOARD OF DIRECTORS

### SECTION 1 - BOARD OF DIRECTORS

6-1.01 The affairs of the Association shall be governed by a Board of no more than twelve (12) Directors, which Board will be guided by this by-law, as well as any policy developed by the Board to guide its functioning. The Directors may do all things as allowed in the by-law, as required by any resolution adopted at any duly constituted meeting of the members or as may be allowed by the laws of this Province, and may do all things necessary to maintain the integrity of the DHPA even though such things are not specifically set out in this by-law.

6-1.02 Pursuant to this by-law, there shall be a Board consisting of:

- (a) Ten (10) Directors elected at large by the Voting Members.
- (b) One (1) Director appointed by the Town of Digby;
- (c) One (1) Director appointed by the District of the Municipality of Digby;

### SECTION 2 - TERMS FOR DIRECTORS

6-2.01 Directors shall be elected or appointed for three-year terms.

### SECTION 3 - QUALIFICATIONS FOR A DIRECTOR

6-3.01 The following persons are not qualified to become a Director:

- (a) anyone who is less than nineteen years of age;
- (b) anyone who is of unsound mind and has been so found by a court in Canada or elsewhere;
- (c) a person who is not an individual (i.e. a corporation);
- (d) a person who has the status of bankrupt; or
  
- (e) a person convicted of an offence under the Criminal Code, chapter C-34 of the Revised Statutes of Canada, 1970, or the criminal law of any jurisdiction outside of Canada;
  - (i) in connection with the promotion, formation or management of a corporation,

**Or**

- (ii) involving fraud, unless three years have elapsed since the expiration of the period fixed for suspension of the passing of sentence without sentencing or since a fine was imposed, or since the term of imprisonment and probation imposed if any, was concluded, whichever is the latest, but the disability imposed by this paragraph ceases upon a pardon being granted.

#### **SECTION 4 - DIRECTOR VACANCY**

**6-4.01** A Director is no longer able to serve as a Director for the balance of his term, and therefore, a vacancy on the Board shall exist where the Director:

- (a) becomes a person who has the status of a bankrupt;
- (b) becomes of unsound mind and has been so found by a court in Canada or elsewhere;
- (c) becomes a person convicted of an offence under the Criminal Code, chapter C-34 of the Revised Statutes of Canada, 1970, or the criminal law of any jurisdiction outside of Canada:
  - (i) in connection with the promotion, formation or management of a corporation,
  - Or**
  - (ii) involving fraud, unless three years have elapsed since the expiration of the period fixed for suspension of the passing of sentence without sentencing or since a fine was imposed, or since the term of imprisonment and probation imposed if any, was concluded, whichever is the latest, but the disability imposed by this paragraph ceases upon a pardon being granted;
- (d) resigns from the Board, by notice in writing to the Chairman or the Harbour Manager;
- (e) has been absent from three (3) consecutive regularly scheduled meetings of the Board in any 12-month period, which absences are, in the opinion of the Board, based on inappropriate reasons;
- (f) resigns as a Member of the Association, or where such membership is terminated;
- (g) dies during his term of office.

6-4.02 For greater clarity, should a Director become any of the above noted, such Director shall be deemed to have resigned.

6-4.03 In the event of a vacancy occurring on the Board, the vacancy may be filled for the balance of the unexpired term as follows:

- (a) where the vacancy is with respect to a Director appointed under Article 6-1.02 of the by-laws , the Board of Directors may appoint a replacement, such replacement to serve the remainder of the term of the vacated position;
- (b) where the vacancy is with respect to a Director elected by the members, the Board may appoint a replacement, such replacement to serve the remainder of the term of the vacated position.

## **SECTION 5 - DIRECTOR COMPENSATION**

6-5.01 No Director shall be paid for his services as a Director and no Director shall profit directly or indirectly from his position as a Director, provided that he may be reimbursed as outlined in Board policy for expenses that may be incurred in the performance of his duties as a Director.

## **SECTION 6 - ELECTION OF OFFICERS**

6-6.01 The Officers of the Board shall be the Chairman, the Vice-Chairman, the Secretary and the Treasurer and shall be elected from among the Directors by the Directors. Officers shall be elected for terms of up to three years. The duties of the Secretary and the Treasurer may be combined in one position called the Secretary-Treasurer.

## **SECTION 7 - VACANCY IN OFFICER POSITIONS**

6-7.01 If the office of Chairman becomes vacant, the Vice-Chairman shall be appointed Chairman of the Board by resolution of the Directors. If the office of the Vice-Chairman, Secretary or Treasurer becomes vacant, the Directors may, by resolution, appoint a Director to the vacant office and such Director appointed by the Board shall remain in that office for the term determined by the Board, such term not to exceed three years.

## **SECTION 8 - REMOVAL OF DIRECTORS AND OFFICERS**

6-8.01 The Board shall have the power by special resolution of any duly called general meeting, provided it is approved by at least three-fourths (3/4) of the Voting Members at the meeting who are entitled to vote in person, to remove any Director(s) or Officer(s) from office before the expiry of his term. Notice of intent is to be given to the Board and the Officer(s) in question 30 days prior to the meeting. At such meeting the Board may elect a replacement Director for the remaining unexpired term of any Director removed. Officers removed by the Board will be replaced by the Directors by the Board at a duly called meeting of the Board.

## **SECTION 9 - BOARD OF DIRECTOR MEETINGS**

6-9.01 Calling of Meetings - A meeting of the Board may be called by the Chairman or any three (3) Directors provided that they shall meet at least once per quarter during the calendar year.

6-9.02 Quorum — At all meetings of the Board, the presence of fifty percent (50%) of the Board members shall be necessary and sufficient to constitute a quorum for the transaction of business and the act of the majority of the Board members present at any meeting at which there is a quorum shall be the act of the Board, except as may be otherwise specifically provided by statute or in the by-law of the Association. If less than a quorum shall be in attendance at the time for which a meeting of the Board members shall have been called, the meeting may, after the lapse of fifteen minutes from the time appointed for holding the meeting, be adjourned from time to time by the directors present for a period not exceeding one month at any one time without any notice other than by announcement made until a quorum shall attend. Any meeting at which a quorum is present may also be adjourned in like manner for such time as may be determined by vote. At any adjourned meeting at which a quorum shall attend, any business may be transacted which might have been transacted if the meeting had been held as originally called.

6-9.03 Notice of Meetings — Notice of all meetings of the Board must be provided to the Board seven days prior thereto. Board members may, in any manner, waive the notice requirement for a meeting. If the first meeting of the Board is held immediately after the annual meeting, no notice shall be necessary provided there is a quorum of the Directors present.

6-9.04 Conduct of Meetings — Board Meetings may be held anywhere in Nova Scotia specified in the notice. Board members may participate in and hold Board Meetings by way of telephone or video conference call or similar electronic communication equipment by which all persons participating in the meeting can hear each other. Participation in such a meeting shall constitute presence in person at the meeting.

6-9.05 Voting at Board meetings - Unless otherwise stated in this by-law, every question arising at a meeting of the Board shall be decided by a majority of votes cast by the Directors present at the meeting. Where there is a tie, the Chairman, who does not have a vote, shall be allowed to cast the tie-breaking vote.

Electronic voting is permitted at all Board and Committee meetings either by:

- a. verbal response to the question via live teleconference or videoconference (where anonymity is not required, or where individually recorded votes are not required).
- b. an email sent to the secretary of the meeting (provides a written record of the vote if required or serves as the equivalent of a secret ballot for individuals not actually present in the meeting room).

6-9.06 Where not otherwise provided for in this by-law, the order of procedure at the meetings of the Board shall be according to the latest edition of Call to Order.

6-9.07 Chair of Meetings - When present, the Chairman shall act as chair of all meetings of the Board. If for any reason the Chairman is unable to chair the meeting, the Vice-Chairman shall assume the duties of the chair. In the event that the Chairman and the Vice-Chairman are absent from a meeting, the Secretary or Treasurer shall chair the meeting, and should all three be absent the Directors may appoint one of the Directors present to chair the meeting.

## **SECTION 10 - ENGAGEMENT OF AGENTS OR EMPLOYEES**

6-10.01 The Board may engage agents and employees as it considers necessary from time to time, and the Board shall decide their duties.

## **SECTION 11 - BOARD MINUTES**

6-11.01 A full set of draft minutes of all meetings of the Board are to be sent to Directors prior to the meeting. Once the minutes have been approved by the Board at its next meeting, they will be made available to members upon request.

## **SECTION 12 - PASSING OF RULES AND REGULATIONS**

6-12.01 The Directors may pass rules and regulations relating to the business and affairs of the DHPA, provided that such are not inconsistent with this by-law. Such rules and regulations, as well as any amendments the Directors may make to the existing rules and regulations, provided such amendments are also not inconsistent with this by-law, shall immediately come into force and apply to the Board and all members.

## **ARTICLE 7 - DUTIES OF OFFICERS**

### **SECTION 1 - DUTIES OF THE CHAIRMAN**

7-1.01 The Chairman, when present, shall preside at all meetings of the Association, the executive committee and of the Board. He shall see that all orders and resolutions of the Voting Members are carried into effect; shall sign all by-laws, minutes of meetings of the Board, and other documents requiring the signatures of the Officers of the Association, or as provided by this by-law; and shall be an ex officio member of all committees . The Chairman shall, subject to the direction of the Board, be the official spokesperson for the Association.

### **SECTION 2 - DUTIES OF THE VICE-CHAIRMAN**

7-2.01 The Vice-Chairman shall, in the absence or disability of the Chairman , be vested with all the powers and shall perform all the duties of the Chairman and shall perform such other duties, as shall from time to time, be decided by the Board.

### **SECTION 3 - DUTIES OF THE SECRETARY**

7-3.01 The Secretary shall cause to be issued notices of all meetings required by this bylaw, shall keep minutes of all meetings of the Board and of the Association, shall have charge of the minute book of the Association, shall keep the Association's registry of all Directors and members, shall sign such instruments as require his signature, shall have custody of the corporate seal, shall oversee all legal filings required of the Association and shall perform all duties incident to his office and have such powers and duties as may, from time to time, be assigned to him by the Board.

## **SECTION 4 - DUTIES OF THE TREASURER**

7-4.01 The Treasurer shall be responsible to oversee the keeping of the accounts of the Association. The Treasurer shall cooperate with the auditors of the Corporation during any audit of the accounts of the Corporation and shall chair the Audit and Finance Committee. The Treasurer shall prepare or cause to be prepared a financial statement of the Association and shall, at the annual meeting of the Association, present an audited financial statement for the approval of the Voting Members.

## **SECTION 5 - DUTIES OF THE HARBOUR MANAGER**

7-5.01 The Harbour Manager shall be the Chief Executive Officer of the Association and shall be responsible for the management and operation of the Association, subject to the direction of the Board. He shall attend all meetings of the Board and shall be responsible for the recording of all votes and minutes of the meetings; shall be responsible, together with the chairman of the meeting, for the signing of the minutes of all meetings of the Board, shall give notice of all meetings of the Association and the Board; shall perform such other duties as may be decided by the Board under whose supervision the Harbour Manager shall act.

## **ARTICLE 8 - COMMITTEES**

### **SECTION 1 - EXECUTIVE COMMITTEE**

8-1.01 An Executive Committee may be established composed of the Officers of the Association. Since the Board may meet with seven days' notice, or may choose to waive notice, and may choose to meet through electronic means, the Executive Committee is only authorized to meet in situations where it is not possible to convene a Board meeting. For clarity, the Executive Committee is limited to deciding emergency matters that could have a significant effect on the Association, except that it shall not decide on matters regarding staff, member status, or matters that could affect member livelihood. Decisions of the Executive Committee are to be presented at the next duly called meeting of the Board. The Board will review decisions of the Executive Committee and may choose to ratify, to change or to rescind such decisions.

At the discretion, or with the consent, of the Board Chair, and for matters of an urgent nature, OR time-sensitive matters OR where it would be more expeditious to do so OR when it is not feasible for the Executive Committee to meet in person or via teleconference, email polling and/or electronic voting may be used to help

facilitate decisions of the Executive Committee in accordance with the following:

- a. In recognition that decisions are being made using email communication in lieu of a face-to-face meeting, extra effort will be made to ensure that members are provided with sufficient background materials and adequate documentation to support the request for a decision.
- b. All communication will be shared as a group email with all members copied on correspondence including questions, responses and general commentary. All members will select “reply all” when providing comments so that these will be shared simultaneously with all members and a record will be kept of the email exchange.
- c. If a resolution is required, the Board Chair may authorize the Secretary to conduct an electronic vote of the members. A clear rationale will be given to the members to explain why a motion is necessary. The question to be answered will be stated clearly in the form of a specific resolution provided for members’ consideration. Respondents will be asked to vote upon the resolution.
- d. In the event of an electronic vote, a reasonable and adequate time will be determined for members to respond to the request for a decision. Members will have the opportunity to declare a conflict and not participate in the vote. Every effort will be made to obtain a response from each member (i.e. allow each person to register their vote). The resolution shall be deemed to have been approved only if, by the end of the time period specified, the Board Secretary has received approval responses from a majority of the voting members.  
Non-response to an electronic vote will be considered an abstention. Voting records will be kept.
- e. A resolution approved by email polling and electronic voting, permitted by the Board Chair and passed by a majority of voting members, shall have the same force and effect as a resolution passed at a regularly constituted meeting of the Executive Committee.
- f. The Board Secretary shall prepare a summary document noting the purpose of, and any decisions resulting from, the electronic exchange including any subsequent resolutions.

## **SECTION 2 - STANDING COMMITTEES**

8-2.01 The following standing committees may be appointed by the Board each year after the annual meeting, and members appointed to such committees shall serve for a period of one (1) year or until their successors are appointed:

- (a) Audit and Finance Committee
- (b) Governance Committee



(c) Nominations Committee

8-2.02 The Board may, as they deem necessary, appoint any other Task Force or committee and set out the duties and responsibilities of same.

8-2.03 Where the Board appoints any committees, including those set out in section 2 (a), (b), and (c), above, it shall appoint not less than one (1) and not more than seven (7) members to each committee, and the committee may designate one of the members to be chair, except the Audit and Finance Committee shall be comprised of a minimum of two (2) members from the Board and any other members appointed by the Board. The Treasurer shall chair the Audit and Finance Committee.

8-2.04 The Chairman of the Board shall be an ex officio member of any Committee appointed by the Directors, although the Chairman shall not be included in the numerical limitations set out in section 2 above.

### **SECTION 3 - COMMITTEE PROCESS**

8-3.01 With respect to committees, established by the Board under Article 8, Section 2.01:

- (a) A committee may not meet to conduct any business unless a majority of the committee members are present at the beginning of and throughout the meeting.
- (b) Questions arising at any committee meeting shall be determined by a majority of votes, and in the event of a tie vote, the chair shall be allowed to vote to break that tie.
- (c) All actions and recommendations of committees shall be subject to the approval of the Board.
- (d) All committees shall report to the Board as directed, from time to time, by the Board.
- (e) Minutes shall be kept of all Committee meetings and it shall be the responsibility of the chairperson of the meeting to review and sign all minutes.

## **SECTION 4 - AUDIT AND FINANCE COMMITTEE**

8-4.01 It shall be the duty of the Audit and Finance Committee to oversee the annual audit and regularly review the financial position of the Board and to report thereon to the Directors including any recommendations concerning:

- (a) changes needed in the financial operation of the DHPA;
- (b) changes in the levels of fees paid by the members;
- (c) management of all assets and investments belonging to the DHPA;
- (d) preparation of an annual budget, which annual budget shall be approved by the Board prior to the commencement of the new fiscal year;
- (e) the integrity of the DHPA accounting and management reporting systems; and
- (f) such other matters of a financial nature that affects the financial position of the Association.

## **SECTION 5 - GOVERNANCE COMMITTEE**

8-5.01 It shall be the duty of the Governance Committee to oversee board governance process and to annually evaluate the performance of the Board and individual Directors.

## **SECTION 6 - NOMINATIONS COMMITTEE**

8-6.01 With respect to the Nominations Committee:

- (a) The Board shall appoint the most immediate Past Chairman who is still a member in good standing of the Association, one person who is a Director and one person who is a Voting Member, who shall not be a Director, and the current Chairman as members of the committee. The Harbour Manager is to be in attendance at the Nominations Committee meetings. The most immediate Past Chairman shall serve as the chair of the Nominations Committee.
- (b) The Nominations Committee may not include a Voting Member who wishes to have their name stand for office, including the Chairman. In the event that the Chairman wishes to run for office, the Chairman is removed from the Nominations Committee and replaced by a Director selected by the Board. For clarity, no member of the Nominating Committee shall be allowed to run for any position in any election for which such member has served as part of the nomination process.

8-6.02 The Nominations Committee shall prepare a written report to be forwarded to the Harbour Manager not less than forty-five (45) days before the annual meeting recommending one nominee for each of the director positions which are to expire at the date of such meeting.

## **SECTION 7 - COMMITTEES OTHER**

8-7.01 The duties of the Committees as set out herein shall serve as guidelines only and the Directors may further set out and clarify the terms of reference for any committee of the Board and/or direct any matter, to any committee, for consideration and review. Where not otherwise provided for in this by-law, the order of procedure at committee meetings shall be according to the latest edition of Call to Order.

## ARTICLE 9

### ANNUAL AND GENERAL MEETINGS OF THE ASSOCIATION

#### **SECTION 1 - THE ANNUAL GENERAL MEETING**

9-1.01 The annual general meeting shall be held within 120 days of the fiscal year end at such time and at such place in Nova Scotia as the Directors, by resolution, may determine. Quorum shall consist of seven (7) Voting Members.

9-1.02 At the annual meeting, the Directors shall present to the Voting Members a report dealing with the affairs of the Association for the previous year, a financial statement of the Association and such other information as the Board may determine

9-1.03 The Chairman may determine the Order of Business for the Annual Meeting; however, a suggested order is:

- ( 1) Call meeting to order
- ( 2) Introduction of the Officers of the board
- ( 3) Reading and adoption of minutes of previous meeting
- ( 4) Business arising out of minutes
- ( 5) Chairman's report
- ( 6) Financial report
- ( 7) Report and appointment of the auditors

- (9) Report of committees
- (10) Unfinished business
- (11) Report of the Nominations Committee
- (12) Election of Directors
- (13) New business
- (14) Adjournment

9-1.04 The Chairman shall determine the business of any meeting of the Association. Voting Members wishing to place an item on the agenda for an annual or general meeting of the Association must notify the Chairman in writing no less than 20 days prior to such meeting and such notice must be signed by two other Voting Members of the Association. Addition of a late resolution item to the agenda by a Voting Member from the floor at an Association meeting will require a seconder and agreement by a majority vote of the Voting Members present.

## **SECTION 2 - CALLING OF A GENERAL MEETING OF THE MEMBERS**

9-2.01 The Chairman may call a General Meeting of the Members at any time. In addition, a General Meeting of the Members shall be called by the Chairman within sixty days of receiving a written request from not less than (20%) of Voting Members. Such written request shall state the proposed agenda for the meeting.

## **SECTION 3 - NOTICE OF AGM MEETINGS OF THE ASSOCIATION**

9-3.01 Public notice of an Annual General Meeting shall be given in the name of the Chairman or Secretary through the DHPA website at least twenty (20) days prior to the date of the meeting and shall include a tentative meeting agenda indicating the general nature of the business to be dealt with at the meeting, and if such meeting is an annual general meeting, shall also include the report of the Nominations Committee.

9-3.02 The accidental omission to give personal notice of any meeting or the failure to receive any notice by a Voting Member(s) shall not invalidate any resolution passed or any proceedings undertaken at any meeting of the Association members.

## **SECTION 4 - QUORUM FOR MEETINGS OF THE ASSOCIATION**

9-4.01 The quorum for a General Meeting of the Association shall consist of fifty percent (50%) of the Voting Members. The quorum for any Annual General Meeting or Special Meeting shall consist of seven (7) Voting Members.

## **SECTION 5 - ADOPTION OF MOTIONS AT MEETINGS OF THE ASSOCIATION**

9-5.01 In all matters brought before meetings of the Association, if not contrary to other sections of this by-law, a simple majority of members present and eligible to vote shall be sufficient for adoption of a motion. In the event of a tie vote at any membership meeting of the Association, the motion is deemed to be defeated. Every Voting Member shall have one vote and no more.

9-5.02 At any meeting, unless a poll is demanded by at least three members, a declaration by the Chairman that a resolution has been carried and an entry to that effect in the book of proceedings of the Association shall be sufficient evidence of the fact, without proof of the number or proportion of the members recorded in favor of or against such resolution. If at any meeting a ballot vote is demanded on any issue, excluding the election of Directors, the chair shall decide if a ballot vote is necessary. Any ballot vote shall be held in the manner and at a time during the meeting as the chair shall direct, and the results of the ballot vote shall be deemed to be the decision of the meeting. A demand of a ballot vote may be withdrawn by the person who made the demand.

9-5.03 The chair is to appoint two (2) scrutineers, who shall under the supervision of the Harbour Manager count the ballots. The Harbour Manager is to bring the results of the vote to the chair upon completion of the count.

## **SECTION 6 - CHAIRING OF MEETINGS OF THE ASSOCIATION**

9-6.01 At all meetings of the Association, the Chairman shall be the chair of the meeting, or in his absence, the Vice-Chairman shall be the chair. If the Chairman and the Vice-Chairman are absent from a meeting, the Secretary or the Treasurer shall act as chair or the members may choose any Director to act as chair, or in the absence of Directors or if the Directors present decline to act as chair, may choose any Voting Member to act as the meeting chair.

## **SECTION 7 - ADJOURNMENT OF MEETINGS OF THE ASSOCIATION**

9-7.01 The chair of any meeting of the Association, with the agreement of the majority of Voting Members, may adjourn any meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting, other than the business left unfinished at the meeting from which the adjournment took place, unless notice of such new business is given to the members.

## **SECTION 8 - MINUTES OF MEETINGS OF THE ASSOCIATION**

9-8.01 A full set of the draft minutes of all meetings of the Association are to be sent to all Directors and be made available to the members within 45 days of the meeting.

## **SECTION 9 - RULES OF ORDER AT MEETINGS OF THE ASSOCIATION**

9-9.01 Where not otherwise provided for in this by-law, the order of procedure at the meetings of the Association shall be according to the latest edition of Call to Order.

## **ARTICLE 10 - NOMINATIONS**

### **SECTION 1 - REPORT OF THE NOMINATIONS COMMITTEE**

10-1.01 The Harbour Manager shall post on the DHPA website notice of the Annual Meeting, a copy of the report of the Nominations Committee.

### **SECTION 2 - ADDITIONAL NOMINATIONS**

10-2.01 Additional nominations for any office on the Board may be made by filing a written nomination with the Harbour Manager, endorsed by two (2) Voting Members of the Association, together with the written consent of the Member so nominated. Such nomination must be filed at least twenty (20) days prior to the date of the annual meeting. At least seven (7) days prior to the date of the annual meeting, the Harbour Manager shall send all Voting Members a copy of all such nominations.

### **SECTION 3 - NOMINATIONS FROM THE FLOOR**

10.3.01 In the event that no standing nominations exist for an Office at the date of the election meeting, nominations for any such Office may also be made from the floor of the election meeting, provided such nominee is a Voting Member, has given written consent to be nominated and it has been moved and seconded by two Voting Members of the Association.

## **SECTION 4 - NOMINATION FOR ONLY ONE OFFICE**

10-4.01 No Voting Member shall be nominated for more than one Office.

## **ARTICLE 11 - ELECTIONS**

### **SECTION 1— MEMBERS IN GOOD STANDING MAY BE ELECTED**

11-1.01 Any member in good standing of the Association shall be eligible to be elected as a Director of the Association.

11-1.02 Directors are elected by members at the annual or general meetings of the Association.

### **SECTION 2 - CHAIRING OF ELECTIONS**

11-2.01 The chair of the Nominations Committee shall preside at any election at the Annual or General Meetings of the Association as provided by this by-law.

### **SECTION 3 - ELECTION PROCESS**

11-3.01 The chair of the Nominations Committee shall present the report of the Committee offering a slate of candidates to fill the open positions as Directors. If any position in the slate of candidates is uncontested, the candidate for that position shall be declared elected by acclamation. Contested nominations shall be decided by a ballot vote of the Voting Members as defined in the by-law.

### **SECTION 4 - SCRUTINEERS**

11-4.01 The chair of the Nominations Committee shall be responsible for the appointment of scrutineers for elections and for reporting the results of the election vote to the Chairman.

## **SECTION 5 - VOTING**

11-5.01 Each Voting Member present in person is entitled to cast one vote for each position contested in the election. A separate poll shall be taken for each contested position and the successful candidate must obtain a majority of the votes cast. If after the ballots are counted, and no candidate has obtained the majority of votes, the name of the candidate who has received the least votes shall be removed from the ballot and an additional ballot shall be held. This procedure will be repeated until the position is filled. Ballots determined by the scrutineers to be spoiled shall not be counted.

11-5.02 In the event of a tie vote, a second ballot may be taken.

## **SECTION 6 - TAKING OF DIRECTOR OFFICE**

11-6.01 The elected Directors shall take office and begin a three-year term immediately following the close of the meeting at which they are elected, except for the first election under this by-law wherein one-third (1/3) of the directors are elected for a one year term, one-third (1/3) are elected for a two year term, and one-third (1/3) are elected for a three year term. After the first election under this by-law all directors shall be elected or appointed for three year terms except where a director vacancy is being filled prior to the expiration of the term of that director.

## **ARTICLE 12**

### **DIRECTOR INDEMNIFICATION AND LIABILITY INSURANCE**

#### **SECTION 1 - DIRECTOR INDEMNIFICATION**

12-1.01 Every Director, Officer, or any other person who has undertaken or is about to undertake any liability on behalf of the Association and his heirs, executors and administrators respectively, shall from time to time and at all times, be indemnified and saved harmless out of the funds of the Association, from and against:

- (a) All costs, charges and expenses whatsoever which such Director, Officer of other person sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him, for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by him, in or about the execution of the duties of his office; and



- (b) All other costs, charges and expenses that he sustains or incurs in or about or in relation to the affairs thereof, except such costs, charges or expenses as are occasioned by his willful neglect or default.

## **SECTION 2 - DIRECTORS AND OFFICERS LIABILITY INSURANCE**

12-2.01 The Association shall maintain Directors and Officers Liability Insurance in an amount as the Directors may, by resolution, require, and any costs involved shall be borne by the Association. The insurance policy is to include coverage for the Officers, the Directors, the Harbour Manager and the Association staff.

## ARTICLE 13 - CONFLICT OF INTEREST

### **SECTION 1 - APPROPRIATE FEES AND BUSINESS CHARGES FOR DIRECTORS**

13-1.01 No Director shall directly or indirectly receive any profit from his position as such, provided that any Director who is engaged in or is a member of a firm or corporation engaged in any business or profession may, subject to the Conflict of Interest Guidelines approved by the Board, act in and be paid the usual professional fees and business charges for any professional work or other business required to be done in connection with the administration of the affairs of the Association.

### **SECTION 2 - CONFLICT OF INTEREST DECLARATION**

13-2.01 Each person elected or appointed as a Director of the Association, shall annually complete a conflict of interest questionnaire meeting the aforesaid Conflict of Interest Guidelines and shall notify the Board of any business activity by the Director which would pose an actual or perceived conflict of interest in his capacity as a Director of the Association. The Board itself, with the person concerned not taking part in the consideration thereof or any vote thereon, shall decide whether the Director should be declared in conflict of interest and disqualified from any activities and discussions of the Association. Further, if a change or anticipated change in circumstances creates a new conflict of interest for a Director; such Director shall inform the Board in writing and refrain from participating in any meetings or discussions involving the item of conflict until the Board decides whether the Director should be declared in conflict of interest and disqualified from any activities and discussions of the Association.

### **SECTION 3 - ADHERENCE TO CONFLICT OF INTEREST GUIDELINES**

13-3.01 The Board shall ensure that all Officers, Directors, and employees of the Association shall adhere to the Conflict of Interest Guidelines approved by the Board for its Directors, Officers and employees designed to prevent real and perceived conflicts of interest. The Conflict of Interest Guidelines should be no less stringent than the rules respecting conflict of interests applicable to a Director of a Corporation under the Nova Scotia Companies Act. By operation of law, the Directors owe a fiduciary duty to the Association notwithstanding whatever relationship exists with his other corporate or business involvements.

## ARTICLE 14 -FISCAL YEAR

### **SECTION 1 - FISCAL YEAR**

14-1.01 The fiscal year of the Association shall be from January 1st to December 31<sup>st</sup> of each year.

## ARTICLE 15 - AUDITORS

### **SECTION 1 - APPOINTMENT OF AUDITORS**

15-1.01 The Directors shall, at a duly called meeting of the Board, appoint an auditor who shall hold office for one year or until replaced by the Directors.

### **SECTION 2 - REMUNERATION OF AUDITORS**

15-2.01 The Board shall fix the remuneration of the auditor.

### **SECTION 3 - ANNUAL AUDITING OF ACCOUNTS**

15-3.01 The accounts of the Association shall be reviewed by a qualified auditor annually. The Association shall make a written report to the members as to the financial position of the Association and the report shall contain a balance sheet and an operating account. The auditors shall make a written report to the members upon

the balance sheet and operating account, and in every such report, he shall state whether, in his opinion, the balance sheet is a full and fair balance sheet containing the particulars required by the Association and properly drawn up so as to exhibit a true and correct view of the Association's affairs, and such report shall be read at the annual meeting. A copy of the balance sheet showing the general particulars of its liabilities and assets and a statement of its income and expenditures in the preceding year, prepared by the auditor, shall be filed with the Registrar within fourteen days after the annual meeting in each year as required by law.

## ARTICLE 16 - SIGNATURE OF DOCUMENTS

### **SECTION 1 - SIGNING AUTHORITY**

16-1.01 Execution of contracts, deeds, and other instruments and documents in writing requiring the signature of the Board of Directors may be signed by the Chairman, the Vice-Chairman, the Secretary, or the Treasurer together with the Harbour Manager, and all contracts, deeds, instruments and documents in writing so signed shall be binding upon the DHPA without any further authorization or formalities.

16-1.02 The Corporate Seal, when required, may be affixed to contracts, documents or instruments in writing signed as said or by any Officer, person or persons appointed by resolution of the Directors.

## ARTICLE 17

### FINANCIAL, BORROWING AND INVESTMENT AUTHORITY

#### **SECTION 1 - APPROVAL OF ANNUAL BUDGETS**

17-1.01 The Board shall approve the annual budget of the Association for each fiscal year prior to the beginning of such fiscal year

## **SECTION 2 - BORROWING AUTHORITY**

17-2.01 The borrowing power of the Association shall be limited to such an amount and on such terms as shall be authorized by a special resolution of the members at a duly convened meeting of the Association.

## **SECTION 3 - INVESTMENT OF ASSOCIATION FUNDS**

17-3.01 The Board shall:

- (a) Deposit or cause to be deposited funds of the Association in any Canadian chartered bank or trust company or Investment Firm;
- (b) Invest or cause to be invested short term surplus cash funds in short term guaranteed investment instruments (i.e. Treasury Bills, Provincial coupons, money market funds etc.) or certificates of such institutions;
- (c) All monies invested on behalf of the Association will be subject to the approval of the Board through resolution of investment policy approved by the Board.

## **ARTICLE 18 - BOOKS, RECORDS, AND REQUIRED FILINGS**

### **SECTION 1 - KEEPING OF ASSOCIATION RECORDS**

18-1.01 The Board shall see that all necessary books and records of the Association are kept in accordance with law or policies of the Association.

18-1.02 The books and records of the Association may be inspected by any member at any reasonable time within two days prior to the annual meeting at the registered office of the Association.

### **SECTION 2 — FILINGS**

18-2.01 The Association shall file with the Registrar with its annual statement a list of Directors with their addresses, occupations, and dates of appointment or election, and within fourteen days of a change of Directors, notify the Registrar of the change.

18-2.02 The association shall file with the Registrar a copy in duplicate of every special resolution within fourteen days after the resolution is passed,

18-2.03 A copy of the balance sheet showing the general particulars of its liabilities and assets and a statement of its income and expenditures in the preceding year, audited by the auditor, shall be filed with the Registrar within fourteen days after the annual meeting in each year as required by law.

## ARTICLE 19 - REPEAL AND AMENDMENT OF THE BY-LAW

### **SECTION 1 - BOARD MAY PROPOSE AMENDMENT TO THE BY-LAW**

19-1.01 The provisions of this by-law may be repealed or amended at any duly constituted meeting of the Board for later presentation to the Voting Members at an Association meeting, provided that at least two-thirds (2/3) of the Directors present at the meeting vote in favour of such proposed amendment or repeal, and provided also that every Director shall have received at least seven (7) days written notice, before the meeting, of such amendment or repeal.

### **SECTION 2 - VOTING MEMBERS MAY PROPOSE AMENDMENTS TO THE BY-LAW**

19-2.01 Voting Members may also propose repeal or amendment to the by-law provided that any proposed amendment or repeal of this by-law shall be in writing, signed by at least five (5) Voting Members.

### **SECTION 3 - NOTICE OF PROPOSED AMENDMENT TO THE BY-LAW**

19-3.01 Any proposed repeal or amendment of the by-law must be presented in writing no less than forty (40) days prior to the Association meeting to the Secretary who shall include a copy in the notice to members of such meeting. Notice of proposed by-law amendments shall be given to the Voting Members at least 30 days prior to the Annual or Special Meeting called for such purpose.

## **SECTION 4 - APPROVAL OF AMENDMENTS TO THE BY-LAW**

19-4.01 To become effective, any proposed amendment or repeal of this by-law must be confirmed and approved by special resolution (75% majority) of the Voting Members in attendance at a duly called Annual or General Meeting...

## **ARTICLE 20 - DISSOLUTION OF THE DHPA**

### **SECTION 1— DISSOLUTION AND DISPOSAL OF FUNDS AND CHATTELS**

20-1.01 Upon the dissolution of the DHPA and after payment of all debts and liabilities, its remaining funds and chattels shall be distributed or disposed of for charitable or educational purposes as directed by this by-law or as the members determine by special resolution. No part of any funds or chattels of the DHPA shall be available to the Directors or the members upon dissolution. Anybody that is to received funds or chattels, as set out herein, must qualify as a tax exempt body as defined in the Canadian Income Tax Act, R.S.C. 1985, c. 1 at the time of such dissolution.

20-1.02 Dissolution is not meant to include mergers, partnerships, alliances or other arrangements where a majority of the objects of the DHPA are pursued for the benefit of the members by a new or changed legal entity. In such case, and after the approval by special resolution of the voting members in attendance in a duly called general meeting, the assets of the DHPA shall be used in future as directed by such special resolution of the members.

### **SECTION 2 — DISSOLUTION AND DISPOSAL OF REAL PROPERTY**

20-2.01 Should the DHPA be dissolved, the Department of Fisheries and Oceans Canada would have the first right to assume the outstanding debt against the real property of the DHPA and take legal possession of such real property. Should the Department of Fisheries and Oceans fail to exercise this right, the Town of Digby and the Municipality of the District of Digby would co jointly or separately have the second right to assume the outstanding debt against the real property of the DHPA and take legal possession of such property. Should neither the Department of Fisheries and Oceans or the Town of Digby and the Municipality of the District of Digby co jointly exercise such rights, the real property of the DHPA would be sold, and after payment of all debts and liabilities, the remaining funds shall be distributed or disposed of for charitable or educational purposes as directed by this by-law or as the members determine by special resolution. No part of any funds or chattels of the DHPA shall be available to the Directors or the members upon dissolution. Anybody that is to received funds from the sale of real

property, as set out herein, must qualify as a tax exempt body as defined in the Canadian Income Tax Act, R.S.C. 1985, c. 1 at the time of such dissolution.

20-2.02 Clause 20-2.01 above cannot be amended except with a special resolution of the members.

## ARTICLE 21 - SALE AND LEASE OF REAL PROPERTY SECTION 1— LEASE AND SALE OF REAL PROPERTY

21-1.01 Sale or lease of the real property of the DHPA to a second party would require a special resolution (75% majority) of the voting members in attendance at a duly called general meeting of the Association.