

**DECLARATION OF COVENANTS
WITH RESPECT TO PRIVATE ACCESSWAY MAINTENANCE**

KNOW ALL MEN BY THESE PRESENTS, that the Undersigned as owner of certain lot or parcel of land located on Fessenden Road in the Town of Cape Elizabeth, County of Cumberland and State of Maine (the “Town”), and more particularly described on the attached schedule A;

WHEREAS the Undersigned desire to subject the Property to a perpetual obligation to maintain the Private Accessway serving 19 Fessenden Road, Cape Elizabeth, Maine.

NOW, THEREFORE, in consideration of these premises, the Undersigned for themselves and their respective successors and assigns, hereby subject the Property to the following agreement as covenants running with the land which shall be binding upon and enforceable by the parties and their respective successors and assigns, or by the then of any parcels subject to this Declaration, to wit:

1. **Maintenance of Private Accessway.** The undersigned hereby agree to provide for the maintenance and repairs necessary to keep private accessway passable on foot and by motor vehicles, including without limitation, the emergency vehicle of the Town of Cape Elizabeth, including grading, snow plowing, sanding and trimming of vegetation. Snow plowing of the private accessway shall include the entire 16-foot width, including grassed gravel shoulder, all in accordance with that certain Plan of a Private Accessway approved by Town’s Planning Board on XXXXXX, XX, 2020, to be recorded in the Cumberland County Registry of Deeds.

2. **Enforcement.** The Declaration may be enforced by the Town by all legally permissible powers of enforcement. All of the Town’s costs and expenses of enforcement and collection, including reasonable attorney’s fees and interest on such costs and expenses shall constitute a lien on a lot. The recording of this Declaration constitutes record notice of the lien, which may be foreclosed in the same manner as a mortgage on real estate or by any other method now or hereafter permitted by law. The Town shall also have the right, but not the obligation, to enforce this agreement in order to ensure access for emergency vehicle. Any and all cost incurred by the Town in enforcing this agreement and maintaining the private accessway including reasonable attorney’s fees, shall be the responsibility of the Undersigned, their successors or assigns.

3. **Private Accessway Description**

June 5, 2020
30' Wide Private Access Easement Description
Cape Elizabeth, Maine

A certain lot or parcel of land located on the northerly side of Fessenden Road in the Town of Cape Elizabeth, County of Cumberland, State of Maine, bounded and described as follows:

Beginning at a 1 1/2" iron pipe located on the northerly sideline of Fessenden Road and at the southwesterly corner of land now or formerly Lois E. Bamford as described in a deed recorded in the Cumberland County Registry of Deeds in Book 24652, Page 34. Thence;

1. N 76°06'22" W by said Fessenden Road a distance of Thirty and 09/100 (30.09) feet to a point;
2. N 18°24'35" E through land designated as "Parcel A" as delineated on said plan a distance of One Hundred Ninety-Two and 07/100 (192.07) feet to a point on the southerly sideline of land designated as "Parcel B" as delineated on said plan;
3. S 76°00'31" E by and through said Parcel B a distance of Thirty and 09/100 (30.09) feet to a point at said land of Bamford;
4. S 18°24'35" W by said land of Bamford a distance of One Hundred Ninety-Two and 02/100 (192.02) feet to the point of beginning.

The above described easement contains 0.13 acres, more or less, and being designated as "30' Wide Private Access Easement" as delineated on a Boundary and Existing Conditions Survey made for Paul Stewart by Titcomb Associates dated June 2, 2020. Bearings are reference to Grid North, Maine State Plane Coordinate System, West Zone, NAD83.

Meaning and intending to describe a Thirty (30) foot wide easement lying over land now or formerly of Paul S. Stewart and Melanie T. Stewart as described in a deed recorded in the Cumberland County Registry of Deeds in Book 36125, Page 40.

If any provisions of this Declaration, or its application to any persons or circumstances, are invalid or unenforceable, then the remainder of this Declaration, or the application of such provision to other persons or circumstances, shall not be affected thereby.

IN WITNESS THEREOF, the Undersigned has/have executed this Declaration of covenants this day _____ of month _____, year _____.

WITNESS

By:

Its

WITNESS

By:

Its

STATE OF MAINE

_____, SS

Personally appeared the above-named _____ and acknowledged the forgoing executions to be _____ free act and deed in said capacity and free act and deed of.

Before me,

Notary Public/ Attorney at Law

Printed Name