

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS  
OF BEAVER BROOK SUBDIVISION

This Declaration is made this \_\_\_ day of \_\_\_\_\_, 2020, by Beaver Brook Properties LLC ("Landowner"), regarding certain lands located in Cornwall, Vermont.

**WHEREAS**, the Landowner wishes to subdivide and develop a certain piece of land depicted on a Subdivision Plat entitled "plat showing a subdivision survey of lands of Beaver Brook Properties, LLC North Bingham Street & VT Route 74 Cornwall, Addison County, Vermont", prepared by Ronald L. LaRose, RLS, dated October 22, 2018 and last revised March 2, ~~2020~~<sup>2019</sup>, and recorded at Map Slide \_\_\_\_\_ of the Cornwall Land Records (hereinafter the "Subdivision Plan" and/or the "Survey"). The Project is also depicted on a set of eight (8) Drawings entitled "Beaver Brook Properties, LLC Beaver Brook Subdivision Cornwall, Vermont" prepared by Green Mountain Engineering, consisting of:

1. Cover Sheet;
2. Existing Conditions Site Plan;
3. Proposed Lot Layout Site Plan;
4. Proposed Lot 9 Layout Site Plan [NOTE: see Section 1.3];
5. Proposed Property Easements Site Plan;
6. Proposed Infrastructure Overall Site Plan;
7. Proposed Water & Wastewater Infrastructure Site Plan; and,
8. Proposed Stormwater Infrastructure Site Plan.

Said Drawings are dated December 12, 2019 and last revised February 19, 2020 and filed with the Town of Cornwall Development Review Board (referred to herein as the "Drawings" or a "Drawing"). The Project is known as the Beaver Brook Subdivision (the "Project").

**WHEREAS**, said Project will require certain stormwater drainage and treatment easements and facilities; water supplies, wastewater collection, treatment, and disposal easements and systems; conservation of agricultural lands and natural areas; easements and rights of way for access, construction, maintenance, repair and plowing of the private roads located within the subdivision; construction, maintenance, and repair of utilities other community facilities; beautification on common lands, as well as architectural review requirements for each Lot Owner;

**WHEREAS**, the Landowner desires to create a system whereby the stormwater drainage and treatment easements and facilities, wastewater collection, treatment, and disposal easements and systems, conservation of agricultural lands and natural areas, construction, maintenance, repair and plowing of the private roads located within the subdivision, construction, maintenance, and repair of utilities and other community facilities, beautification on common lands, as well as design review requirements for each Lot Owner are implemented, enforced, maintained, operated, or repaired;

**NOW THEREFORE**, the Landowner declares that the ~~real p~~Property depicted on the ~~above referenced Subdivision Plan~~ shall be held, transferred, sold and conveyed subject to the following conditions, easements, restrictions, and covenants all of which are intended to run with the title to the land:

**ARTICLE I**  
**Definitions**

The following words when used in this Declaration or any supplemental declaration shall have the following meanings:

**Section 1.0:** "Association" shall mean and refer to the Beaver Brook Homeowners' Association, Inc., a non-profit corporation.

**Section 1.1:** "Property" shall mean Lots 1-8, C-1 and C-2, as depicted on the Subdivision Plan and the Drawings.

**Section 1.2:** "Lot" shall mean any of Lots 1 through 8 as depicted on the Subdivision Plan and Drawings and located at the Property.

**Section 1.3:** "Lot 9" shall mean Lot 9 shown and depicted on Drawing 4. Lot 9 is not subject to this Declaration of Covenants, Restrictions and Easements of Beaver Brook Subdivision. Notwithstanding the foregoing, Lot 9 is subject to the applicable permits and permit conditions issued in connection with the Project to the extent they specifically refer or relate to Lot 9 in addition to the matters shown and depicted on Drawing 4 that related to said Lot 9.

**Section 1.4:** "Common Lot" shall mean either or both of Lots C1 and C2 as depicted on the Subdivision Plan and Drawings and located at the Property.

**Section 1.5:** "Lot Owner" shall mean and refer to the record owner by one or more persons or entities, of the fee simple title to any of Lots 1-8 located within the Property, but, notwithstanding any applicable theory of the mortgage, shall not mean and refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure. The Landowner shall be the "Lot Owner" of each lot for which it has obtained governmental approvals so long as it is the record owner.

**Section 1.6:** "Stormwater Drainage and Treatment Facilities" shall mean: the system designed and created to manage storm water runoff and drainage within the subdivision, including, but not limited to surface pretreatment areas, the storm water detention pond and all related pipes, equipment, and facilities related to the proper functioning of said system, including all facilities as may be required under regulation of any applicable local, state, or federal jurisdiction.

**Section 1.7:** "Wastewater Collection, Treatment and Disposal Systems" shall mean: the systems designed and created to manage the treatment, pumping, and disposal of wastewater on the property, including, but not limited to pump stations, pipes, tanks, equipment, distribution centers, and arty and all other equipment or facilities related to the proper. functioning of said system, including all facilities as

may be required under regulation of any applicable local, state, or federal jurisdiction.

**Section 1.8:** "Executive Board" shall have the same meaning as it is defined in Article IV of the By-laws.

**Section 1.9:** "Member" shall mean and refer to all Lot Owners ~~who are members of the Association,~~

**Section 1.10:** "Landowner" shall mean Beaver Brook Properties, LLC and its successors and assigns.

**Section 1.11:** "Bedroom" shall mean any room within a building or structure that is permitted, used, or serves as sleeping quarters.

**Section 1.12:** "By-Laws" shall mean the By-Laws of Beaver Brook Homeowners Association, Inc.

## **ARTICLE II** **Easements and Maintenance -Surface Drainage**

**Section 2.0:** The Lots are encumbered by surface drainage easements as shown and depicted on Drawing 5, entitled "Proposed Property Easements Site Plan" and on Drawing 8, entitled "Proposed Stormwater Infrastructure Site Plan", and as required by permits issued by the State of Vermont and/or United States. In the event of a conflict between any provision in this Declaration and/or matters depicted on the Drawings and a stormwater permit issued by the State of Vermont and/or United States, the stormwater permit and any plans filed in connection therewith shall control

**Section 2.1:** The Lot Owner of each Lot encumbered by said drainage easement(s) shall maintain each easement area in a manner that will allow the passage of stormwater and other natural surface drainage. Routine maintenance of the drainage area shall be the responsibility of the encumbered Lot Owners, including the periodic mowing of vegetation, and the removal of accumulated debris, except for the detention pond on Lots 4 and 5 which shall be the responsibility of the Association. Drainage pipes within any easement area shall not be obstructed or diverted, and stone in stone-lined swales shall not be removed.

**Section 2.2:** The Association shall have the right to periodically inspect, maintain or repair the drainage facilities within the surface drainage easement areas, including the use of heavy equipment.

**Section 2.3:** The Association and/or its agents shall be allowed reasonable access to all surface drainage easement areas in order to periodically inspect, maintain or repair the drainage facilities. In addition, upon reasonable notice to the Association, the State of Vermont will be allowed reasonable access to all surface drainage easement areas for the purpose of monitoring and inspecting said facilities consistent with applicable permits and regulations.

**ARTICLE III**  
**Easements and Maintenance-Wastewater Treatment and Collection**

**Section 3.0:** All Lots will be encumbered by wastewater treatment and collection easements to ensure proper maintenance of the septic tanks, filtration systems, and pump stations that connect to the overall Wastewater Collection, Treatment and Disposal Systems, all as depicted on Drawing 5, entitled "Proposed Property Easements Site Plan" and/or Drawing 7, entitled "Proposed Water & Wastewater Infrastructure Site Plan". Lot owners shall be responsible for construction and repair of the septic tank, filtration system, and pump station serving just their Lot to the point of connection to a shared sanitary sewer line all as installed by the Landowner. Maintenance of the septic tank, filtration system, and pump station on each Lot shall be the responsibility of the Association so as to ensure proper operation of the overall system. Any necessary repairs shall be at the direction of the Association, but the cost shall be borne by the Lot Owner. Each Lot Owner shall comply with the guidelines of the Association with regard to the disposal and treatment of domestic wastewater so as to ensure the longevity of the overall Wastewater Treatment, Collection, and Disposal System.

**Section 3.1:** All Lot Owners shall comply with the Wastewater System and Potable Water Supply Rules (effective April 12, 2019, as the same may be amended from time to time) and any permit issued in connection with this Project for wastewater systems (a "WW Permit") and the accompanying Approved Plans filed in conjunction therewith (the "Approved Plans"). In the event of a conflict between any provision in this Declaration and/or matters depicted on the Drawings and the WW Permit and/or Approved Plans, the WW Permit and Approved Plans shall control.

**Section 3.2:** The following Lots are encumbered by a wastewater collection easement on a portion of the Lot: Lot C1, Lot 5, Lot 6, Lot 7, and Lot 8. Said easements are for the transfer of wastewater effluent from dwelling units to septic tanks and/or pump stations on nearby Lots to the collection and disposal system located on Lot C2, all as generally depicted on the Drawings and on said Approved Plans. The location of each twenty foot (20') wide sewer easement shall be fixed, being ten feet (10') on either side of the centerline of the sanitary sewer lines and/or pump station(s) and/or other improvements once installed.

**Section 3.3:** The Lot Owner of each Lot encumbered by said wastewater collection and treatment easements shall maintain the easement areas in a manner that will not adversely impact the proper functioning of said systems. Routine maintenance of the area shall be the responsibility of the encumbered Lot Owners, including the periodic mowing of vegetation, removal of debris and routing of surface water drainage away from such systems.

**Section 3.4:** The Association shall have the right to periodically maintain or repair the wastewater collection and treatment easements, including the use of heavy equipment for such purpose.

**Section 3.5:** The Association and/or its agents shall be allowed reasonable access to all wastewater collection and treatment easement areas in order to periodically

maintain or repair the systems as specified above. In addition, upon reasonable notice to the Association, the State of Vermont will be allowed reasonable access to all wastewater collection and treatment easement areas for the purpose of monitoring and inspecting said systems.

#### **ARTICLE IV**

#### **Easements and Maintenance – Water Supplies and Well Shields**

**Section 4.0:** All Lot Owners shall comply with the Wastewater System and Potable Water Supply Rules (effective April 12, 2019, as the same may be amended from time to time), and any permit issued in connection with this Project for water supply systems (a “WW Permit”) and the accompanying Approved Plans filed in conjunction therewith (the “Approved Plans”). In the event of a conflict between any provision in this Declaration and/or matters depicted on the Drawings and the WW Permit and/or Approved Plans, the WW Permit and Approved Plans shall control.

**Section 4.1:** All Lots shall be encumbered by easements for well shields/well isolation distances as depicted on Drawings 6 and 7 as well as on the Approved Plans.

**Section 4.2:** All Lot Owners shall install demand-initiated regeneration water softeners as part of the water supply system serving their Lot if recommended or required by the terms of the WW Permit.

#### **ARTICLE V**

#### **Easements and Maintenance - Utilities**

**Section 5.0:** The Lots are encumbered by twenty foot (20') wide utility line easements and rights of way and are generally located within the fifty foot (50') wide easements and rights of way for ingress and egress as shown and depicted on Drawing 3 entitled “Proposed Lot Layout Site Plan” and Drawing 4, entitled “Proposed Property Easements Site Plan” and the Subdivision Plan. The easements and rights of way shall not unreasonably interfere with the roads serving the Lots. The easements and rights of way authorize the installation, construction, maintenance, replacement and repair of utility lines to serve the Lots in the Association. The final location of each twenty foot (20') wide utility line easement shall be fixed, being ten feet (10') on either side of the centerline of the utility line and/or pad mount(s), transformer(s), and/or other improvements once installed.

**Section 5.1:** The Lot Owner of each lot encumbered by said easement and right of way shall maintain the easement area in a manner that will allow the utility lines and related utility infrastructure to be free from damage from trees, root systems, vehicles, and the like. Routine maintenance of the drainage area shall be the responsibility of the encumbered lot owners.

**Section 5.2:** The Association shall have the right to periodically inspect, maintain or repair the utility lines and related facilities within the easement areas, including the use of heavy equipment.

**Section 5.3:** The Association and/or its agents shall be allowed reasonable access to all utility easement areas in order to periodically inspect, maintain or repair the utility lines and/or facilities.

**ARTICLE VI**  
**Easements and Maintenance – Access**

**Section 6.0:** The Lots are benefited and encumbered by easements and rights of way for ingress and egress all as depicted on Drawing 3 entitled "Proposed Lot Layout Site Plan" and Drawing 5, entitled "Proposed Property Easements Site Plan" and the on the Site Plan. Routine maintenance (including snow removal, sanding, plowing, salting, and regular grading and/or application of additional gravel as needed to maintain the roadway in a good and passable condition) of all shared portions of the roadways shall be the responsibility of the Association all as set forth in Article VIII. Any portion of any roadway not shared with at least one other Lot Owner shall be the sole responsibility of the Lot Owner benefiting from and/or utilizing any such portion of the roadway. All roadways shall be maintained in a good and workmanlike manner. Any damage in excess of normal wear and tear to any portion of any roadway(s) serving Lots in the Association shall be repaired at the sole cost and expense of the Lot Owner who caused (or whose agent caused) the damage reasonably requiring such repair.

**Section 6.1:** The Lot Owners shall keep the roadways open and shall not park cars or equipment on the roadways in a manner that causes blockages to other users of the roadways and/or restricts access in any way by emergency vehicles.

**ARTICLE VII**  
**Existing Structure Storage Facilities**

**Section 7.0:** The existing structures located on the Association property (the "SHED", "EXISTING BUILDING", "EXISTING BUILDING" and "EXISTING BARN" all on Lot C1) and as depicted on the Drawings and the Subdivision Plan shall be maintained in a stable and safe condition by the Association for storage purposes, all in accordance with the Secretary of the Interior's Standards for Rehabilitation (currently found at: <https://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>). Any other use proposed for the existing structures on the Association land may be undertaken only if a.) approved by a majority of Lot Owners at a regularly scheduled or specially warned meeting of the Association; and, b.) the use and structure(s) are properly permitted by Town of Cornwall and State of Vermont, as applicable.

**Section 7.1:** The "DUPLEX" located on Lot 1 and depicted on the Survey shall be used for residential purposes. The "CHURCH" located on Lot 2 and the "EXISTING BUILDING (GARAGE)" on Lot 3 as depicted on the Drawings, shall be used by the respective owners of Lot 2 and Lot 3 solely for storage purposes. The structures shall be maintained in a stable and safe condition by the respective Lot Owner and shall be maintained in accordance with the Secretary of the Interior's Standards for

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Rehabilitation (currently found at:

<https://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>). Any other proposed use for the existing structures on Lot 1, Lot 2 or, Lot 3 may be undertaken only if the use is properly permitted by the Town of Cornwall and State of Vermont, as applicable.

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**Section 7.2:** The Association may ~~vote~~elect to obtain proper state and municipal permits to build, maintain, and repair buildings and structures for common recreational, agricultural or storage purposes on the Common Lands owned by Association as depicted on the Subdivision Plan and as prescribed in Article X below. Lot Owners may choose whether to participate in such facilities, and participating Lot Owners shall share the cost of constructing, maintaining, and repairing such facilities in a manner established by the Association, so long as said proposal is: a.) approved by a majority of Lot Owners at a regularly scheduled or specially warned meeting of the Association; and, b.) the use and/or new structure(s) are properly permitted by Town of Cornwall and State of Vermont, as applicable.

#### **ARTICLE VIII**

##### **Costs of Maintenance, Repair and Compliance - Roads, Drainage, Storm water, Wastewater, Utilities, Beautification, and Agricultural Land Maintenance**

**Section 8.0:** Subject to the provisions of Section 8.2, the Lot Owners shall pay the cost of maintaining, plowing, repairing, and complying with permits for common private roads, existing buildings and structures, drainage systems, stormwater treatment facilities, wastewater collection, treatment, and disposal facilities, electrical and communications utilities, beautification and property taxes assessed on common lands, as such costs may be assessed from time to time by the Association.

**Section 8.1:** The Association shall assess expenses to the Lot Owners based upon the following formula: the Lot Owners shall each pay a fractional share of each assessment with the numerator being the total number of Bedrooms (whether developed or not with dwelling) owned by or allocated to the Lot Owner and the denominator being the total number of Bedrooms permitted for the entire Project. In the event the total number of Bedrooms permitted for the Project exceeds the number of Bedrooms actually allocated to Lots, the denominator shall be reduced to the number of Bedrooms actually allocated until such time as the allocation increases.

**Section 8.2:** Notwithstanding the provisions of Section 8.0, the Association shall have the right to assess fines or penalties to individual Lot Owners in accordance with Vermont Law and this Declaration in the event a Lot Owner or Lot Owners fewer than all Lot Owners are the cause of or should be held responsible for correcting damages caused to the common private roads, drainage systems, stormwater treatment facilities, wastewater disposal system(s) and/or shared

utilities.

**ARTICLE IX**  
**Architectural Review Requirements**

**Section 9.0:** In addition to applying for and receiving all necessary permits for construction, ~~ea~~Each Lot Owner must abide by Architectural Review Requirements as follows:

- a. Architectural plans and landscaping plans must be submitted to the Executive Board for approval prior to construction of a structure on any Lot. The design must demonstrate compliance with the following requirements. Reasonable approval shall not be withheld.
- b. All houses, garages, barns, sheds and other buildings must be constructed with an exterior design and finish materials that substantially replicate an authentic 19<sup>th</sup> Century Vermont colonial or farmhouse design, or be consistent with homes already found in the vicinity of the Property so the new construction is reasonably similar and complementary to the existing neighborhood, with an emphasis on exterior design detail (i.e. eave returns, window trim, symmetry, etc.). Modern finish materials may be substituted only if it is determined that they realistically resemble authentic period materials. Materials including standing seam roofs, architectural shingles, clapboard siding, and cedar shingles are all acceptable. Electric lighting may be substituted for period lighting methods. Detached or semi-detached garages are encouraged. Materials inside the finished exterior surface may be of a modern, energy and labor-saving design consistent with state energy codes.
- c. Substitution of alternative period architectural designs not already found in the neighborhood of the Property, that do not resemble modern tract housing, may be approved subject to the written waiver from the Executive Board and each Lot Owner in the Association.
- d. Landscaping plans should complement the rural and naturalized woodland or meadow setting. Large "suburban" lawns shall be discouraged. Grassed areas may be used around structures as an accent feature and as a storm water filter strip. Grassed play areas for children may be approved at the rear or side of structures. Selection of trees and woody shrubs should be native species or non-native species that complement the native species found in the Cornwall area. No restrictions will be placed on the selection of annual or perennial flowering plants.

**Section 9.1:** The Landowner expressly reserves the right to amend these Architectural Review Requirements within eighteen months of the sale of the first lot, if less than four (4) lots have been sold during that time. Such amendment would be subject to review and approval of the Cornwall ~~Design~~ **Development** Review Board to ensure compliance with all applicable planning and environmental



standards.

**ARTICLE X**  
**Restrictions on the "Common Land"**

**Section 10.0:** ~~The Lot Owners, through the Association, are is~~ owners of certain Common Lands as depicted on the Drawings and Subdivision Plan. Said Common Lands are subject to the following restrictions:-

- a. No structures, including buildings, pools, tennis courts, bathhouses, barns or similar structures, may be constructed on the Common Land as shown on the Drawings and Subdivision Plan unless the contemplated improvement is a.) approved by a majority of Lot Owners at a regularly scheduled or specially warned meeting of the Association; and, b.) the use and/or new structure(s) are properly permitted by Town of Cornwall and State of Vermont, as applicable.
- b. Any changes to the drainage and storm water treatment facilities, the wastewater treatment, collection, and disposal facilities, and the private road facilities, shall be subject to the review and approval by the applicable town, state, and federal agencies.
- c. Any structures constructed on the Common Land shall be submitted for review to the Executive Board. Such facilities shall comply with the Architectural Review Requirements and blend with the rural agricultural landscape.
- d. Any structure proposed by the Association shall be subject to permit review and approval by the Cornwall ~~Design~~Development Review Board to ensure compliance with all applicable permits and regulations.

d.

**ARTICLE XI**  
**Right of Enforcement**

**Section 11.0.** Each Lot Owner and the Association shall have the right – independently or together – to enforce the covenants, easements and restrictions set forth in this Declaration by bringing an action in Vermont Superior Court for damages, injunctive and/or equitable relief. In addition to any action for damages an aggrieved Lot Owner, group of Lot Owners, or the Association may bring, said Lot Owner, group of Lot Owners, or the Association shall be entitled to preliminary, temporary and/or permanent injunctive relief, without being required to provide any bond or surety, to prevent or halt any violation of this Declaration.

**Section 11.1.** In the event action is brought to enforce or interpret this Declaration, the substantially prevailing party in such action shall be entitled to an award of their or its reasonable attorneys' fees and costs of suit in addition to any other remedy or award granted by the Court.

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DATED AT \_\_\_\_\_, Vermont this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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BEAVER BROOK PROPERTIES, LLC

By: \_\_\_\_\_  
Churchill Franklin, Member and duly  
authorized agent

STATE OF VERMONT            )  
COUNTY OF ADDISON        ) SS.

At \_\_\_\_\_, Vermont this \_\_\_\_\_ day of \_\_\_\_\_, 2020  
personally appeared Churchill Franklin, Member and duly authorized agent of Beaver  
Brook Properties, LLC and he acknowledged this instrument, by him sealed and  
subscribed, to be his free act and deed and the free act and deed of Beaver Brook  
Properties, LLC.

Before me, \_\_\_\_\_  
Notary Public  
My commission expires: 1/31/2021  
My commission

number: \_\_\_\_\_