

**THIRD AMENDED AND RESTATED
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
for MALLETT WOODS SUBDIVISION**

PAGES: 7

This Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Mallett Woods Subdivision is made this 19th day of September, 2016 by Mallett Woods, LLC, a limited liability company duly organized under the laws of the State of Maine, which shall be referred herein to as the "Declarant,"

WHEREAS, the Declarant created the Declaration of Covenants, Conditions and Restrictions for Mallett Woods Subdivision, Phase I dated December 23, 2013 and recorded in the Sagadahoc County Registry of Deeds in Book 3544, Page 103; and

WHEREAS, the Declarant executed the First Amended and Restated Declaration of Covenants, Conditions and Restrictions for Mallett Woods Subdivision, Phase I dated October 30, 2013 and recorded in the Sagadahoc County Registry of Deeds in Book 3554, Page 28; and

WHEREAS, the Declarant executed the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Mallett Woods Subdivision, Phase I dated November 20, 2013 and recorded in the Sagadahoc County Registry of Deeds in Book 3560, Page 85; and
WHEREAS, Declarant specifically reserved the right in Section 6 of the Declaration "to amend these covenants, conditions and restrictions so long as it owns any Lot as depicted on the Plan"; and

WHEREAS, the Declarant, among other matters, desires to amend and restate these covenants, conditions and restrictions so as they shall apply to that portion of the Mallett Woods Subdivision as may be developed by the Declarant and which premises are shown on the Plan Mallett Woods Subdivision Plan, for Mallett Woods, LLC, Park Drive, Topsham, Maine," prepared Robert M. Spivey, dated May 1, 2013, and recorded in the Sagadahoc County Registry in Plan Book 49, Pages 14, 15 and 16 (the "Plan") that have been offered by the Declarant as lots for approval and finally approved by the Town of Topsham Planning Board and the MeDEP (the "Subdivision"), in Topsham, Maine. Such lot in the Subdivision shall be referred to as a "Lot". The Declarant may, but need not, develop as Lots, all of the premises as shown on the Plan

WHEREAS, Declarant desires to amend and restate the Declaration as set forth in this the Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Mallett Woods Subdivision as follows:

THIS THIRD AMENDED AND RESTATED DECLARATION is made as of the 19th day of June, 2016 by Mallett Woods, LLC, a limited liability company duly organized under the laws of the State of Maine, which shall be referred herein to as the "Declarant,"

WITNESSETH THAT:

WHEREAS, Declarant is the owner of the real property in Topsham, Sagadahoc County, Maine, described on Mallett Woods Subdivision, for Mallett Woods, LLC by Robert M. Spivey dated May 1, 2013 and recorded in the Sagadahoc County Registry of Deeds on June 19, 2013 in Plan Book 49, Page 14, 15 and 16 (the "Plan") and referred to in this Declaration as the "Property", and

WHEREAS, Declarant desires to create a residential community on the Property (the "Subdivision") made up of single-family homes on individual lots (the "Lots"), and

WHEREAS, Declarant desires to subject and place upon the Property certain covenants, conditions, restrictions, easements, reservations, rights-of-way and other limitations and obligations set forth herein for the purpose of protecting the value and desirability of the Property, and for the purpose of furthering a comprehensive plan for the appropriate improvement and development, homeownership, maintenance and sale of the Property, and to

- (a) Protect the owners of Lots ("Homeowners") against improper development and use of surrounding Lots that might depreciate unreasonably the value and use of their homes,
- (b) Assure reasonably consistent development of the Property,
- (c) Prevent the erection on the Property of structures constructed of improper or unsuitable materials or with improper quality or methods of construction,
- (d) Encourage the erection of attractively designed permanent improvements appropriately located within the Property in order to achieve a harmonious appearance and function, and
- (e) Promote generally the welfare and safety of the Homeowners,

all to the end that a harmonious and attractive development may be accomplished and the health, comfort, safety, convenience and general welfare of the Homeowners and of Declarant and its successors and assigns may be promoted and safeguarded.

NOW, THEREFORE, in consideration of the promises and provisions hereinafter contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant does hereby publish and declare that the following terms, covenants, conditions, restrictions, easements, reservations, uses, rights-of-way, limitations, obligations and other provisions shall run with title to the Property, and shall be a burden and a benefit, binding and benefiting all parties having any right, title or interest in the Property and their heirs, personal representatives, successors and assigns; provided, however that these covenants, conditions and restrictions shall apply only to that portion of the Mallett Woods Subdivision as may be developed by the Declarant and which premises are shown on the Plan

Mallett Woods Subdivision Plan, for Mallett Woods, LLC, Park Drive, Topsham, Maine," prepared Robert M. Spivey, dated May 1, 2013, and recorded in the Sagadahoc County Registry in Plan Book 49, Pages 14, 15 and 16 (the "Plan") that have been offered by the Declarant as lots for approval and finally approved by the Town of Topsham Planning Board and the MeDEP (the "Subdivision"), in Topsham, Maine. The Declarant may, but need not, develop as Lots all of the premises as shown on the Plan

1. **Building Specifications:** No building, or other structure or installation or anything used for habitation shall be erected, placed or constructed on a Lot until the plans with specifications, including the location on the Lot, have been filed with and approved in writing by the Declarant, its successors and assigns, including and without limiting the generality of the foregoing:
 - a. Roof pitches shall be no less than a six (6") pitch; provided, however, this provision shall not apply to porch roofs.
 - b. Any and all vents and venting shall be located on the rear of the Residence.
 - c. If "J" channels are used in vinyl then such shall not be visible anywhere on the Residence.
 - d. All overhangs of the roofs shall be at least twelve inches (12") wide.
 - e. No seams in any vinyl siding shall appear on the front of the Residence.
 - f. All porches shall be constructed of composite decking or natural decking materials; pressure treated lumber, if used, may only be used for framing and support underneath the deck. Each house shall be constructed with a front porch.
 - g. A grading plan meeting with approval of the Declarant for the forty foot (40') drainage easements shall be submitted to the Declarant prior to the commencement of construction.
 - h. First floor elevations shall be approved by the Declarant prior to the commencement of any construction.
 - i. Only fences of cedar construction are permitted. Other fences, such as high end vinyl fences, may be permitted, subject to Declarant approval, in its sole discretion. Notwithstanding the foregoing, nothing in this Declaration shall be deemed to prohibit "invisible fences" for the purpose of containing pets. Stone walls shall be permitted for landscaping purposes only, and shall not define a side property line; such stone fences in volume shall not exceed fifty (50) cubic feet in the aggregate and shall be no higher than two (2) feet. No fences shall be constructed any closer to the front of the Residence and the street than a line extending from the rear of the Residence or the rear of the garage.
 - j. Each Lot shall be constructed and maintained with a paved, or brick or concrete pavers, driveway.

k. Each Lot shall be constructed and maintained with an operative six feet (6') high granite lamp post located not less than twenty (20) feet or more than thirty (30) feet from the front lot line of such Lot.

The gross living area of any dwelling shall be at least 1,400 square feet, exclusive of garages, porches, decks, breezeways, ells or patios and each dwelling shall have a two (2) car garage. Notwithstanding the foregoing, at the Declarant's sole discretion, not more than two (2) residences may be constructed in Phase I on two respective Lots with a gross living area of less than 1,400 square feet, but greater than 1,200 square feet, exclusive of garages, porches, decks, breezeways, ells or patios.

No building shall exceed 2 ½ stories. Any and all antennae, dishes, or other communication devices shall be attached to the rear of the Residence and shall not be visible from the street.

Finish First Floor Elevation shall be that which is in accordance with the calculation provided by Declarant's engineer.

Buildings shall have exterior siding to be either painted or stained wood, vinyl, brick, stone or high end siding materials such as Hardi Plank or other similar high end composites

Building design, including but not limited to roof shapes, building orientation, exterior color, material texture and window treatment shall be of a character harmonious with the natural rural setting of the Property. Construction shall be of a type that will not detract from the value of other homes on other Lots or the Property. No structure shall be markedly conspicuous.

All plans for the construction, showing the proposed structures, architectural elevations, and location upon the lot shall be prepared such that the Declarant prior to the commencement of construction shall have the right to reject such plans if they do not conform to the above aforementioned considerations. Approval shall not be unreasonably withheld. Declarant shall render its decision of acceptance or rejection within seven (7) days of receipt of said plans and this decision shall be final and not subject to any review.

In the event Declarant fails to give a decision within seven (7) days of receipt of said plans, said plan shall be deemed to have been accepted. The provisions of this paragraph shall terminate when all of the Lots described on this Plan have been sold and each principal resident's plan approved.

- 2. Construction:** All construction work on any buildings or other structures, including restoring the premises and landscaping, shall be completed and a Certificate of Occupancy obtained from the Town of Topsham within twelve months from the date the construction, including excavation, commences. During construction, Homeowners or the Homeowner's contractor, must maintain the Lot in a neat and orderly fashion. Construction debris shall be placed in the dumpsters at the end of each work day.

Upon the completion of construction, the Homeowner or the Homeowner's contractor, shall plant shrubbery in accordance with a landscaping plan approved by the Declarant as set forth in Section 1 and shall plant a lawn using hydro seed.

All buildings, structures, installations, and other improvements including sewer and water systems to be erected, maintained or altered upon said land must comply with all the state, municipal and other government laws, rules and regulations.

Each Lot is conveyed subject to the Easements, Set Back Lines, Side Lot Lines, Restrictions and Notes as shown on the Plan. [To the extent possible, designate these here].

Further subdivision of any Lot is prohibited except by the Declarant to convey property to abutters.

3. Each Lot shall be used for single family residential purposes, subject to the provisions herein.

No duplex residence or apartment house shall be erected or placed on any Lot, and no buildings shall be altered or converted into a duplex residence or apartment house.

One non income producing accessory apartment may be incorporated within said dwelling or garage provided the footprint of the accessory apartment shall not be greater than 500 square feet and there shall be no door access to said apartment facing the street.

4. No livestock, animals or poultry other than household pets shall be kept, maintained or allowed on any of the lots. No boarding or breeding kennels may be kept or maintained on any Lot.

No trailers, mobile homes, tents or temporary dwellings of any size shall be placed, erected or maintained on any Lot. Vehicles which do not have a current State inspection sticker may not be stored out of doors on any Lot. No trade, business, profession or commercial trade of any nature shall be conducted on any Lot unless it:

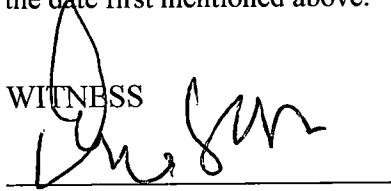
- a. The business is conducted within the living area of the residence, is limited to 144 square feet of floor area, and is secondary and subsidiary to the use of the premises as a single family residence;
- b. There is no shipping of goods, product or inventory from the premises (this restriction is not meant to exclude or preclude the use of overnight or express courier or delivery service pickups, and deliveries, which are routinely made to residential areas within the Town of Topsham).
- c. There is no noise, odor, vapor or other non-visual indication (nuisance or not) that a business is operated on the premises;
- d. Has no employees other than the Homeowner or their successors in title; and

e. Is not advertised on the Lot

5. Any and all improvements or structures shall be located within the building envelopes as depicted on the Plan and the corresponding buffers shall not be improved upon.
6. The Declarant reserves the right to amend these covenants, conditions and restrictions so long as it owns any real estate depicted on the Plan. The Declarant further reserves the right, subject to Planning Board approval, to amend the Plan, and specifically, without limitation, the location of Open Space and Lots.
7. Prior to the date of the execution and recording of this Declaration, there has been formed the MALLETT WOODS HOMEOWNERS ASSOCIATION, a non-profit non-stock corporation organized and existing under the laws of the State of Maine (herein after called the "Association"). Each Homeowner shall automatically become a member of the Association, as long as such person continues as the owner of a Lot and each owner of a Lot as depicted on the Plan shall automatically become and be a member of the Association as long as such person continues as the owner of a Lot. Upon termination of such interest of an owner in a Lot, such person's membership and any interest in the Association shall thereupon automatically terminate and transfer and inure to the successor owner of the Lot. Each owner of a Lot shall be bound by the By-Laws of the Association, as the same may be amended from time to time, and each owner of a Lot shall comply strictly with said By-Laws of the Association. No holder of a mortgage of a lot shall be considered as homeowner unless and until such holder shall acquire title to the lot by foreclosure, by deed in lieu of foreclosure, or by maintaining possession of the lot.
8. The covenants, conditions and restrictions contained in this Declaration shall run and bind the land herein in perpetuity. The Declarant, its successors and assigns, shall have the rights at any time or times proceed at law or in equity against any person violating or attempting to violate any such provisions. Failure to enforce any provision therein contained in any particular instance shall not be deemed a waiver of the right to do so to the same on any subsequent or other violation. Nothing herein shall prevent the Homeowner or the owners of Property subject to the covenants, conditions and restrictions, including, without limitation, the Association, from enforcing said covenants, conditions and restrictions against the Homeowner or owners of other land so restricted. In the event that the Declarant, or any other Homeowner, or the Association must go to Court or take legal action in order to enforce these covenants, conditions and restrictions and is the prevailing party in such proceeding, the Homeowner of the Lot which was found to be in violation of these covenants, conditions and restrictions shall pay the costs of Court, including reasonable legal fees, of the Homeowner or Association bringing the action.

IN WITNESS WHEREOF, Declarant has executed this Third Amended and Restated Declaration as of the date first mentioned above.

WITNESS



Mallett Woods, LLC

By:

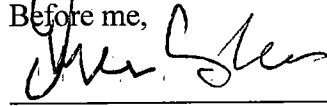

Daniel M. Catlin, Manager

STATE OF MAINE
Cumberland County, ss

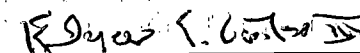
September 19, 2016

Then personally appeared the above named Daniel M. Catlin, in his capacity as Manager of Mallett Woods, LLC, and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of said company.

Before me,



Notary Public/Attorney at Law



Printed Name



Commission Expires:

MAINE
NOTARY PUBLIC
EDGAR S. LASHIN
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Bangor, ME 04401
(207) 541-2400