**Name of Road Association Here**

**BY-LAWS**

April \_\_\_, 20 \_\_\_

Article 1

**Name and Purpose**

The name of the Association shall be the \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, hereafter referred to as “the Association”, and shall be formed in accordance with the Maine Private Ways Statute, Title 23, Maine Revised Statutes (M. R. S.), Section (§) 3101 et sequentes (*et seq.*) and as may be amended. The purpose of the Association is to provide for safe use, repair and maintenance of the private section of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Road and associated shore right-of-way as shown on Addendum 1\*; and to assure that all property owners are treated fairly and equitably in the costs incurred as enforced by the Maine Private Ways Statute.

Article 2

**Membership and Definition of a Parcel**

Section 1. Membership shall be limited to the owners, their heirs and assigns, of the eight (13) numbered Tax Lots shown on \_\_\_\_Map\_\_\_\_\_ in the Tax Records of the Town of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ benefited by driveway access on the private section of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Addendum 2\*\*). A Member shall have no vested right, interest, or privilege in past or present assets or functions of the Association after membership ceases. A holder or owner of a security interest only, such as a mortgagee, shall not be qualified to be a Member.

Section 2. A parcel as defined herein will include property (lot or lots) that meets at least one of the following criteria: 1. A single property representing sole ownership interest in the Association. 2. Multiple properties with an owner in common. 3. Any property that contains a dwelling unit comprised of a bedroom, bathroom, and kitchen. Property meeting two of the above will be defined by criterion 3.

Section 3. An Association “member”, as referenced herein, may have one of two definitions: 1. An owner of a parcel engaged in voting as defined in Article 6, and, 2. An owner of property as defined in Section 1. A member will be defined by the former (1.) when deciding the number of votes in favor or opposed; the latter (2.) when deciding a member’s privileges, responsibilities, and qualifications for voting.

Article 3

**Dissolution**

The Association through its Board of Directors may address present and future repair and maintenance of the private section of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Road and associated shore right-of way until dissolved by a majority vote of the membership.Members will be sent notice of the proposed dissolution thirty (30) days in advance.Dissolution will become effective when signed by the President/Road Commissioner or three members, and will be recorded in the Cumberland County Registry of Deeds and all money held on behalf of the Association shall be returned to the members, *pro rata*.

Article 4

**Elections**

The matters of the Association will be managed by a Board of Directors (“The Board”) composed of the Officers of the Association elected at each Annual Meeting from the membership by majority vote. Officer positions will be President/Road Commissioner, Vice-President, Secretary, and Treasurer. If the Officers thus elected comprise an even number, the membership may elect a Director-at-large. The Board will consist of no less than three nor more than five members. The Officers and Director-at-large will serve until the next Annual Meeting commencing terms immediately after adjournment. Vacancies will be filled through appointment by the remaining Board of Directors until the next election. The Officers and Director-at-large may be recalled by a majority vote at any meeting.

Article 5

**Meetings**

Section 1. Annual Meeting: After the organizational meeting on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20 \_\_\_, the Association shall have an Annual Meeting in \_\_\_\_\_\_\_ quarter of each year. Notice shall be sent to the membership of time and place and the agenda and supporting materials, including budget items affecting the amount to be paid by each owner, at least thirty (30) days in advance.

Section 2. Special Meetings: The President/Road Commissioner, or three Members, may determine the need for additional meetings and send thirty (30) day notice in like manner. When a meeting is called by three Members, they may designate a Member other than the President/Road Commissioner to preside, and must send notice of the outcome of all votes to the membership within thirty (30) days.

Section 3. Notice of Meetings: Notice shall be given as provided for in 23 M. R. S. § 3101 (2, 3).

Section 4. Emergencies: An emergency may be, but will not be limited to, untoward events causing the road to be unsafe or impassable for an unacceptable time period. The Board of Directors will declare an emergency and decide upon a course of action. When the course of action requires funds in excess of $1500, the Board shall poll Members via telephone or e-mail and must obtain confirmation from a majority of the Membership for approval.

Section 5. Rules of Order: All Meetings will use the Meeting Rules of Procedure attached hereto

in Addendum 3\*\*\*.

Article 6

**Voting Rights**

Section 1. Each parcel as defined in Article 2, Section 2, will represent one vote in matters before the membership.

Section 2. A simple majority vote will prevail except as noted in Article 7.

Section 3. Members are permitted proxy and absentee voting privileges by 23 M. R. S. § 3101 (4). Proxy/Absentee Ballots will be offered to members by the presiding officer. Ballots must be completed, returned by regular mail or e-mail, and be received by the presiding officer before the opening of the meeting.

Section 4. Any owner of a parcel or his/her proxy will have the right to vote. Votes will be cast in person or by written or electronic proxy given by the absent member to another member who is present at the meeting. The proxy will be either general or specific.

Article 7

**Amendments**

Amendments to the By-laws may be proposed by any Member and submitted in writing to the President/Road Commissioner for inclusion on the agenda in the Notice of Annual Meeting. Amendments shall be in accordance with the provisions of 23 M. R. S. § 3101 *et seq*. By-Laws shall be amended or rescinded by a 2/3 majority vote. Approved changes shall become effective when signed by the President/Road Commissioner or three Members, and shall be recorded in the \_\_\_\_\_\_\_\_\_\_\_\_County Registry of Deeds.

Article 8

**Board of Directors and Officers**

Section 1. Board of Directors: The Board of Directors will serve between membership meetings to act on such matters approved by the membership, and as authorized by 23 M. R. S. §3101 *et seq.* and as set forth in these By-Laws. The Board will have the authority, between meetings, to spend up to $1500 on road maintenance expenses not approved by the membership at a duly called meeting. Unapproved expenses in excess of $1500 will require membership approval. The Board will decide late payment and interest penalties which will be included in the notification of maintenance fees sent to the membership; and, noting member hardship, will have discretion in applying penalties and activating enforcement procedures.

Section 2. President/Road Commissioner: The President/Road Commissioner will be executive Director and chief executive officer of the Association and, during and between meetings, will carry out the will of the Membership and the Board voted by majority and stated in these by-laws. The President/Road Commissioner will be, ex-officio, a member of all committees and Moderator of all Association meetings except as indicated in Section 3 below and in Article 5, Section 2. The President/Road Commissioner, or Board Members with the approval of the President/Road Commissioner, will sign contracts and authorize the payment of obligations approved by the membership. Notwithstanding the use of the word commissioner in the title of the President/Road Commissioner, and notwithstanding any other provision of these bylaws, the membership did not choose a commissioner pursuant to 23 MRS § 3101(5) to exercise the authority set forth in the statute; the membership chose instead the Board, and that authority will be exercised only by the Board and those to whom the Board may delegate. **Ω**

Section 3. Vice-President: The Vice-President will serve as President/Road Commissioner when the President/Road Commissioner is unwilling or unable to perform official duties. The Vice-President will assist the membership at meetings by ensuring fairness in rules of procedure, proxy and absentee voting, and will poll absentees as necessary to determine the final vote on non-agenda items proposed and voted on at the meeting. The Vice-President will perform other duties as may be assigned by the membership or the President/Road Commissioner.

Section 4. Secretary and Treasurer: The Secretary will keep the minutes of the Association meetings. The presiding officer may assign a member to record minutes in the Secretary’s absence.

The Secretary will send notice of the outcome of all votes to the membership within thirty (30) days.

The Treasurer will have custody of the receipts and disbursements. The funds of the Association will be held in a bank account assigning joint custody to the Treasurer and an owner member chosen by the President/Road Commissioner. The Secretary and Treasurer will perform other duties as may be assigned by the membership or the President/Road Commissioner.

Section 5. Director-at-large: If the elected officers comprise an even number, members may elect a Director-at-large who together with the Officers thus elected will comprise the Board of Directors. The Director-at-large will perform other duties as may be assigned by the membership or the President/Road Commissioner.

Article 9

**Maintenance Fees**

Section 1. The Association will have the right and power to subject the property of its Members to maintenance fees pursuant to 23 M.R.S. § 3101 *et seq.*

Section 2. Maintenance fees decided by the Association will be comprised of two components: a road maintenance fee and a shore right-of-way maintenance fee. Maintenance Fees for the forthcoming year will be proposed by the President/Road Commissioner at the Annual Meeting for membership approval and may be adjusted from year-to-year as road maintenance and shore right-of-way maintenance require. The Association may vote to assess the maintenance fee in installments and set a due date for each installment. Maintenance fees may also be proposed for membership approval at a Special Meeting as determined by the Board of Directors.

Section 3. Payment of maintenance fees is due in full thirty (30) days after the date affixed to the notification. The date thus affixed will be the Notification Date and the date thirty (30) days hence will be the Due Date. Members will be in default when fees are not settled by ninety (90) days after the Due Date.

Section 4. A residential parcel defined herein will include a Lot that contains a dwelling unit comprised of a bedroom, bathroom and kitchen. Each residential parcel will be responsible for one share of road maintenance and shore right-of way maintenance fees. Parcels without a dwelling unit will be responsible for 1/2 share of maintenance fees until the next Annual Meeting after completion of a dwelling unit after which said parcel will be responsible for one full share of road maintenance fees. Parcels whose driveways are within 100 feet of the beginning of the private section shall be responsible for one-fifth (1/5) share of road maintenance fees. Each parcel shall be responsible for one full share of the shore right-of-way fees.

Section 5. A property defined herein will be one of the thirteen (13) numbered Tax Lots shown on 20\_\_ Map: 007 in the Tax Records of the Town of \_\_\_\_\_\_\_\_\_\_\_ within the bold outline on Addendum 2. The thirteen (13) properties of the Association comprise ten (10) parcels as defined in Article 2, Section 2:

Nine (9) parcels are currently residential parcels: (\* indicates a property with a dwelling unit)

7/\*Lot112 7/\*Lot 128D

7/\*Lot 114 and 5/Lot 128 7/\*Lot 127B

7/\*Lot 117 7/\*Lot 127

7/\*Lot 118-ETC 7/\*Lot 130

7/\*Lot 119C

One (1) parcel is without a dwelling unit: 7/Lot 120, 7/128C, and 7/128F

If the parcel without a dwelling unit is purchased by existing owners, the property will be assimilated according to Article 2, section 2, and the responsibility for its share of maintenance fees will be assigned to the purchasing owners.If a property benefited by driveway or easement access on the private section is developed to contain a dwelling unit or sold to become a parcel; it will be responsible for a share of maintenance fees as noted in Section 4.

Section 6. Any damage to the road by an owner, his/her guests, or his/her contractors beyond normal wear and tear shall be the responsibility of that owner, and the cost of any repairs necessitated by such damage may be assessed against said owner by the membership.

Section 7. The maintenance fee will be used for repairing and maintaining the private section of\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Road, including, but not limited to, snow removal, road safety accessories, the drainage and storm water management infrastructure and the sight distances on curves and intersections of the road. Costs for surface maintenance and repair, drainage, storm water management and infrastructure at the shore right-of-way shall be shore right-of way fees. The maintenance fee may also be used for providing liability insurance coverage for the Association, its Members and Officers, the cost of consultants, and the operating costs of the Association.

Article 10

**Enforcements**

The Association shall have the power and authority to enforce and collect past-due maintenance fees by civil action. Members in default of their fees shall also be liable to the Association for reasonable interest and late charges set in advance by the Board; and for reasonable costs of collection, including, but not limited to, attorneys’ fees and costs. The Board may cause to be recorded in the county's registry of deeds a notice of claim for money owed that is more than 90 days delinquent and may add to the amount owed the recording costs. Before recording such notice or service of process of a complaint for collection in a civil action, the Board shall give the Owner against whom such action is to be taken written notice of the intended action if the debt is not paid within 20 days of the date of the written notice. This written notice to cure must be sent at least 30 days before the recording of the notice of claim or the service of process of the complaint for collection in a civil action.

Article 11

**Liability Insurance**

The Association shall maintain a general liability insurance policy for the benefit and protection of the Association, its officers, members, and employees. The policy shall cover common areas, facilities, equipment and activities owned, operated and/or maintained by the Association as well as personal property and all acts performed by the Association. The face amount shall be determined from time to time by the membership and shall be considered part of the Association maintenance fees.

Article 12

**Indemnification Insurance**

Each officer, member and employee of the Association shall be indemnified by the Association to the extent of insurance coverage against expenses, including attorney’s fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by such person in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason that such person is or was an officer, member, or employee of the Association, if such person acted in good faith and in a manner reasonably believed to be lawful and in the best interests of the Association.

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\* Suggest using a copy of the Town Tax Map or Recorded Plan that shows the entire Road and shore right-of-way for which the Association is responsible. Outline the road and way in black marker, copy, and attach as Addendum #1.

\*\* Suggest using the same Tax Map or Plan showing all Lots included in the Association. Outline the Lots in black marker, copy, and attach as Addendum #2.

\*\*\* Suggest using the Item entitled “RULES OF PROCEDURE FOR MEETING MOTIONS” on the MARA Resources Page. Copy and attach as Addendum #3.

**Ω** Section 3101(5) states that the owners “may choose a commissioner or board” to exercise the authority set forth in the statute. This last sentence in the section 2 makes clear that the board, not the commissioner, has statutory authority in this association. If this choice is not made clear, then a judge may deny the association’s authority to levy assessments and enforce delinquency with Notice of Claim.

The following Signature Block provides a list all Owners and their Properties in the Association. Gather as many signatures as possible. All signatures are not necessary providing 23 Title, §3101, Call of Meeting, is followed and documented carefully. Consult with your legal advisor about Recording By-laws in the County Registry. Real Estate Agents and Mortgage Lenders like Registered By-laws that account for maintenance of the road where the property is located.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20 \_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Book \_\_\_\_\_\_\_\_, Page \_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Owner

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Book \_\_\_\_\_\_\_\_, Page \_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Co-owner

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Co-Owner

State of Maine

County of Cumberland \_\_\_\_\_\_\_\_\_\_\_\_, 2016

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ personally appeared before me and acknowledged

that his/her signature on this Agreement was his/her free act and deed.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

STATE OF MAINE

County of Cumberland May\_\_\_\_\_\_\_\_2016

By-laws above compiled from materials available from the Maine Alliance for Road Associations and DEP Doc #DEPLW-1071; original sections drafted by Andrew L. Allen. The 4th Amendment of Sept 26, 2022, herein incorporated, drafted by Andrew L. Allen with assistance from Keith H. Kennedy and John A. Cunningham.