



# State of New Hampshire Department of State

Date Submitted: 8/30/2023  
David M. Scanlan  
Secretary of State

Form NP-1  
RSA 292:2

## ARTICLES OF AGREEMENT OF A NEW HAMPSHIRE NONPROFIT CORPORATION

THE UNDERSIGNED, being persons of lawful age, associate under the provisions of the New Hampshire Revised Statutes Annotated, Chapter 292 by the following articles:

**FIRST:** The name of the corporation shall be:

**COLONIAL DRIVE SEWER ASSOCIATION**

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**SECOND:** The object/purpose for which this corporation is established is:

**22-Utilities - 320-Sewage Treatment Facilities**

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**THIRD:** The provisions for establishing membership and participation in the corporation are:  
**governed by the Colonial Drive Sewer Association's Bylaws.**

**FOURTH:** The provisions for disposition of the corporate assets in the event of dissolution of the corporation including the prioritization of rights of shareholders and members to corporate assets are:

**Upon the dissolution of the association, member contributions held by the association shall be returned to the members after all expenses of the association are paid, consistent with RSA 292:9. Any assets not so disposed of shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the association is then located.**

**FIFTH:** The New Hampshire principal address at which the business of this corporation is to be carried on is

<b>47 Colonial Drive</b>	<b>Moultonborough</b>	<b>NH</b>	<b>03254</b>
(no. & street)	(city/town)	(state)	(zip code)

Principal Mailing Address (if different):

<b>47 Colonial Drive</b>	<b>Moultonborough</b>	<b>NH</b>	<b>03254</b>
(no. & street)	(city/town)	(state)	(zip code)

Business Email: **colonialdrivesewerassociation@gmail.com**

Please check if you would prefer to receive the Nonprofit Report Reminder Notice by email.

**SIXTH:** The amount of capital stock, if any, or the number of shares or membership certificates, if any, and provisions for retirement, reacquisition and redemption of those shares or certificates are:

**There is no provision for capital stock, membership certificates, or retirements of same.**

**SEVENTH:** Provision eliminating or limiting the personal liability of a director, an officer or both, to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, an officer or both is (Note 1)

**No director shall be required to furnish any bond or surety. No director shall be personally responsible or liable for the acts or omissions of any of the other director or of any predecessor or of its custodian, agent, depository, or council selected with reasonable care. All director standard of care to the association shall be governed by New Hampshire law.**

**Officer/Director Information:**

<u>Name</u>	<u>Title</u>	<u>Address</u>
Michael Thurston	President	47 Colonial Drive, Moultonborough, NH, 03254, USA
Jason Ray	Treasurer	64 Colonial Drive, Moultonborough, NH, 03254, USA

**EIGHTH:** Signatures and post office address of each of the persons associating together to form the corporation: (Note 2)

	<u>Signature and Name</u>	<u>Post Office Address</u>
1	<u>Michael Thurston</u> Signature <u>Michael Thurston</u> Name (please print)	<u>47 Colonial Drive</u> Street <u>Moultonborough</u> <u>NH</u> <u>03254</u> City/Town                                      State                      Zip
2	<u>Paula Sheehan</u> Signature <u>Paula Sheehan</u> Name (please print)	<u>55 Colonial Drive</u> Street <u>Moultonborough</u> <u>NH</u> <u>03254</u> City/Town                                      State                      Zip
3	<u>Steve Hamilton</u> Signature <u>Steve Hamilton</u> Name (please print)	<u>54 Colonial Drive</u> Street <u>Moultonborough</u> <u>NH</u> <u>03254</u> City/Town                                      State                      Zip
4	<u>Susan Solomon</u> Signature <u>Susan Solomon</u> Name (please print)	<u>26 Colonial Drive</u> Street <u>Moultonborough</u> <u>NH</u> <u>03254</u> City/Town                                      State                      Zip
5	<u>Thomas Moreau</u> Signature <u>Thomas Moreau</u> Name (please print)	<u>51 Colonial Drive</u> Street <u>Moultonborough</u> <u>NH</u> <u>03254</u> City/Town                                      State                      Zip

**Effective Date:** 08/30/2023 10:28:00 PM

- Notes: 1. If no provision eliminating or limiting personal liability, insert "NONE"  
 2. At least five signatures are required.

DISCLAIMER: All documents filed with the Corporation Division become public records and will be available for public inspection in either tangible or electronic form.

**Mark R. Dunn**

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**Attorney-At-Law**  
**Admitted in NH & ME**

**24 Montgomery Street**  
**Concord, NH 03301**

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August 16, 2023

Marcia A. Brown, Esq.  
NH Brown Law  
20 Noble Street  
Somersworth, NH 03878

RE: Report on status of Colonial Drive, Moultonborough, NH  
and the utility lines within Colonial Drive

Dear Attorney Brown:

I am writing to report on my research as to the status of Colonial Drive, Moultonborough, NH and to the ownership of the utility lines/sewer lines buried in the Colonial Drive right-of-way.

I have reviewed the materials you submitted to me showing the creation of the subdivision by the Center Harbor Christian Fellowship now Center Harbor Christian Church (hereafter "CHCC"). Those records clearly show that CHCC retained the ownership of the utility lines in the Colonial Drive right-of-way. See First Amendment to Declaration of Covenants ... for Colonial Oaks dated November 17, 2006 and recorded at Book 2584, Page 407 in the Carroll County Registry of Deeds (hereafter "Registry").

The trail goes cold as to what happened to CHCC other than there is of record a deed for Lot 9, from the Trustee in Bankruptcy of Center Harbor Christian Fellowship dated March 3, 2015 and recorded at Book 3189, Page 270 in said Registry. There is no other record of the Bankruptcy of Center Harbor Christian Fellowship/Center Harbor Christian Church.

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However, following the discharge in bankruptcy of CHCC, and given the fact that CHCC is still an operating entity, the title to the sewer lines in Colonial Drive and the pump station on Lot 13 of the subdivision is still vested in CHCC pursuant to the bankruptcy rules following a discharge in bankruptcy of an operating entity following bankruptcy.

With regard to the ownership of Colonial Drive, I would suggest that the lot owners own to the middle of Colonial Drive subject to the rights of the Town of Moultonborough in a public servitude in Colonial Drive upon the Town accepting the dedication made by the developer of Colonial Oaks (namely CHCC).

The plan for Colonial Oaks is dated November 22, 2004, as amended and revised and was recorded in 2006 at Plan Book 213, Pages 27-28 (hereafter "Plan") in said Registry.

The Plan falls squarely within the "Paper Street" Statute, RSA 231:51 which is entitled "Dedicated Ways" and reads as follows: "Any street, lane or alley within this state which has been dedicated to public use by being drawn or shown on a plan of lands platted by the owner, and the sale of lots in accordance with such plan, may be released and discharged from all public servitude by vote of the governing body of a city or town if such street, lane or alley has not been opened, built or used for public travel within 20 years of such dedication" (read 20 years from recording as to dedication - my comment);

Colonial Drive, upon recording of the Plan was a street dedicated (read offered to the Town for acceptance as a public way for a period of 20 years from the date of recording. The Town of Moultonborough accepted the dedication by acceptance at the 2007 Town Meeting conducted on Wednesday, March 14, 2007, Article 9 whereby the Town voted to accept Colonial Drive as a Class V town road. Since the Town was acting under RSA 231:51, in my opinion, to accept Colonial Drive, the Town took only a public servitude as stated in RSA 231:51. The statute calls for the roads showing on a plan that has been recorded as being "... dedicated to **public use** ..." (my emphasis). The statute further states that if the town does not accept the dedication within 20 years the road corridor "...**may be released and discharged from all public servitude**...".

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The use of the word "public servitude" suggest to me an easement over the corridor of the road for the public to pass and repass and not ownership. This is consistent with NH case law which contemplates where a town terminates a road (whereby the road is discontinued, I like to use the word abandoned, and the public can no longer travel down the old road), the abutters to the road take to the centerline of the old road as to their boundaries with their neighbors across the old road.

While the Town has an offer to accept a road laid out on a plan of record for 20 years from the date of recording pursuant to RSA 231:51, as noted above, we have to turn to case law to determine the ownership of the fee simple of the road corridor.

There are two cases that speak directly to that issue. In Duchesnaye v. Silva, 118 NH 728, 732, 394 A.2d 59, 61 (1978), the Court held that it is undisputed that the fee title to land of the abutters to a road corridor is in the abutters to that road corridor on either side. Additionally, Polizzo v. Town of Hampton, 126 NH 398, 401 (1985), reaffirms the ownership of abutters to a road corridor, See Headings 2 & 3 on page 401. In the Polizzo case, the Plaintiffs and their abutters across a small spur corridor between their two lots were quieting title to the spur since the Town of Hampton had not accepted the dedication when the subdivision plan was put on record in the early 1960s. Based on the case, the Plaintiffs, Polizzo and Uphams, took to the centerline of this discontinued spur as shown on the subdivision plan.

In conclusion, it would be my opinion that Center Harbor Christian Church, upon discharge from bankruptcy (and with no record of the Trustee in Bankruptcy conveying out any interest in the sewer lines and the sewer pump station to third parties) holds title to the sewer lines and the pump station on Lot 13 and that the owners of the lots in the Colonial Oaks Subdivision own the fee simple interest to the center line of Colonial Drive which is immediately in front of each lot.

If you have any questions, please do not hesitate to contact me.

Sincerely,

  
Mark R. Dunn