

Town of North Topsail Beach

Daniel Tuman, Mayor
Suzanne Gray, Mayor Pro Tem
Aldermen:
Don Harte
Tom Leonard
Richard Macartney
Michael Yawn



Stuart Turille
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

June 15, 2013

Name (s) _____
Address 1 _____
Address 2 _____

RE: Request for Easement Agreement on Your Property Located at:

Tax Parcel ID # _____

Dear Sir or Madam,

As the forces of nature continue to gradually take sand from the shoreline of our Town, leaving the potential for increased vulnerability for storm damage, the Town has determined the need to take measures to protect your property, preserve the Town's tax base, save existing infrastructure, and maintain a wide beach for you, our tourists, and ancestors to enjoy for years to come.

The enclosed easement agreement will allow the Town, its representatives, agents (contractors, surveyors, and others hired by the Town) and equipment to enter the beach front portion of your property to perform the work that is necessary to maintain the Town's shoreline. Many times in the past the Town has had to obtain "Right of Entry" agreements to perform emergency sand pushes, this easement agreement will eliminate the need for the Town to obtain "Right of Entry" documents for each future event or project. This easement agreement will allow for prompt execution of contracts and completion of emergency work that may protect your property and allow for Town funds and staff time to be put to better use.

Currently, the Town is working on a shoreline protection plan that aims to protect the remainder of the Town's shoreline and will result in an engineered beach. The existence of an engineered beach and shoreline protection plan makes our Town eligible for public assistance funding from FEMA in the event of a named disaster. FEMA will reimburse the Town for sand lost during a qualified event. The timeline for execution of this plan is yet to be determined, but the need for your permission to do the work to maintain the Town's shoreline is imperative and will be needed as soon as possible if the project plan is executed this fall or if the Town is impacted by natural disasters. Our beach is in such a condition that the need for some type of maintenance is imminent. The Town needs your help so that it can respond immediately to your needs and those of your neighbors, to keep everyone safe from harm and to protect your property and valuable infrastructure which is in harm's way.

The Town thanks you in advance for your prompt response to this letter. The Town intends to remain good stewards of your tax dollars and strives to do what is best for all its citizens. Please make an effort to return a signed and notarized easement agreement to the Town as soon as possible. Any future projects (including sand pushing) will not move forward without easements from the Town's oceanfront property owners.

Please visit the Town's website at www.ntbnc.org for more information about Shoreline Protection and FEMA's public assistance program. The website will be a resource for updates on the Town's projects and answers to common questions can be found on the site. If you have not already done so, please sign up for the Town's "Connect CTY Notification System" to receive messages by phone, email, and text about important information having to do with the Town of North Topsail Beach. To sign up, go to the link on the Town's website or call 910-328-1349 ext. 20.

Sincerely yours,

Stuart Turille
Town Manager

INSTRUCTIONS

1. **Read** the enclosed Easement Agreement carefully.
2. **Sign** the Easement Agreement.
 - a. (For BLANK EASEMENT) Fill in the Tax Parcel ID, Book and Page as specified on Onslow County GIS. You can find this information at: <http://www.onslowcountync.gov/GIS/> click on GIS/Mapping System and search your property.
 - b. All individual owners have to sign the Easement (copy blank Page 2 or go to www.ntbnc.org to print out another).
 - c. If you act as guardian, power of attorney, executor of an estate, or a trustee of a trust that owns the property you have, sign in that capacity.
 - d. Provide Proof of Authority -- If you sign representing a guardianship, estate, trust, partnership, LLC or corporation, also send the document establishing that you have authority to sign for the owning entity.
3. **Notarize** -- *Every* signature must be notarized (if you are in the North Topsail Beach area, the Town Clerk will be happy to notarize your signature).
4. **Deliver** the Easement to the Town Clerk **AS SOON AS POSSIBLE** (Town of North Topsail Beach – Town Clerk – 2008 Loggerhead Court N. Topsail Beach, NC 28460).
DO NOT ALTER OR CHANGE THE EASEMENT IN ANY WAY.

THANK YOU FOR YOUR COOPERATION

EASEMENT

Prepared by Brian Edes, Town Attorney, 5002 Randall Parkway, Wilmington, NC 28403
No title examination requested or performed

Excise Tax: \$-0- Tax Parcel ID: _____

North Carolina, Onslow County

THIS EASEMENT, made and entered into this the _____ day of _____, 20_____, by and between _____, whose address is _____, hereinafter referred to as the Grantor, and the TOWN OF NORTH TOPSAIL BEACH, NORTH CAROLINA, a North Carolina municipal corporation, 2008 Loggerhead Court, North Topsail Beach, NC 28460, hereinafter referred to as the Town.

Grantor is the owner in fee simple of certain real property, situated in the Town of North Topsail Beach, Onslow County, North Carolina and more particularly described as follows:

- In that certain deed to the Grantor recorded in Book _____, Page _____, Onslow County Registry; OR
 Other: _____

(hereinafter referred to as the "Property"), and Grantor desires to grant a perpetual easement to the Town for the purposes stated below, and Town has agreed to accept such easement from Grantor.

NOW, THEREFORE, for a valuable consideration, including the benefits Grantor may derive therefrom, the receipt of which is hereby acknowledged, Grantor has dedicated, bargained and conveyed and by these presents does hereby dedicate, grant and convey to Town, its successors and assigns, a perpetual, irrevocable and assignable easement and right-of-way in, on, over, through and across the hereinafter described land for use by the Town, its representatives, agents, employees, officials, engineers, consultants, surveyors, contractors, subcontractors, assignees, and invitees, that portion of the Property which is seaward of the following locations, whichever is most seaward: the Vegetation Line; the toe of the Frontal Dune or Primary Dune; or the Erosion Escarpment of the Frontal Dune or Primary Dune. The definitions of Vegetation Line, Frontal Dune, Primary Dune, and Erosion Escarpment shall be those definitions set forth in 15A North Carolina Administrative Code § 7H .0305 (hereinafter referred to as the "Easement Area").

TO HAVE AND HOLD the said easement unto the Town, its successors and assigns, now and forever. The Town shall have the right to temporarily or permanently assign this easement to the federal, state, or county governments, or any agencies or department thereof or any governmental authority formed to implement shoreline protection activities and/or stabilization of the beach in North Topsail Beach. This easement shall be binding on the Grantor, Grantor's heirs, successors and assigns, and shall run with the title of the Property in perpetuity.

Easement Terms, Uses, Conditions, and Restrictions:

1. Town may use the Easement Area to perform *Activities* required of the Town to complete projects which include evaluating, surveying, inspecting, constructing, preserving, patrolling, protecting, operating, maintaining, repairing, rehabilitating, and replacing a public beach, a dune system, and other erosion control and storm damage reduction measures together with appurtenances thereto, including the right to:

- deposit sand together with the right of public use and access over such deposited sand;
- accomplish any alterations of contours on said land;
- construct berms and dunes;
- nourish and renourish periodically;
- perform any other work necessary and incident to the construction, periodic renourishment and maintenance of the Town's Shoreline Protection Project (hereinafter referred to as the "Project")

2. THERE IS RESERVED, HOWEVER, to the Grantor, Grantor's heirs, successors and assigns, the right to construct dune walkover structures in accordance with any applicable Federal, State or local laws or regulations, provided that such structures shall not violate the integrity of the dune in shape, dimension or function, and that prior approval of the plans and specifications for such structures is obtained from the Town. Such structures shall be subordinate to the construction, operation, maintenance, repair, rehabilitation and replacement of the work authorized herein. There is further reserved to the Grantor, Grantor's heirs, successors and assigns all such rights and privileges as may be used and enjoyed without interfering with or abridging the rights and easements hereby acquired.

3. Grantee will indemnify, hold harmless and defend the Grantor for any claim arising from *Activities* (as described in paragraph one) on the *Property*.

4. Grantee has no responsibility to restore or repair natural forces damage.

5. Grantee makes no representations on sand volume, if any, to be placed on or in front of the *Property* or protective affects the *Activities* or will provide the *Property*;

6. Grantor acknowledges (i) any raised lands created seaward of a pre-project mean high water mark is the property of the State of North Carolina subject to the public trust; (ii) the fluctuating state of the ocean beach; and (iii) Grantee makes no representation on the precise location of either the most seaward boundary of the *Property* or the most landward extent of the public trust beach.

7. Grantor acknowledges that both the wet sand beach and/or the dry sand beach seaward of the first line of vegetation represents public trust land available for public access. The Town will actively oppose any action to restrict public and private access to and across the Ocean Beaches as defined in N.C. Gen. Stat. § 77-20(e).

8. Town, its officers, employees, and agents may enter the Easement Area and the Access Easement whenever reasonably necessary for the purpose of inspecting same to determine compliance herewith, to maintain as may be necessary or convenient thereto.

9. Grantor shall in all other respects remain the fee owner of the *Property* and Easement Area, subject to any existing rights of the State of North Carolina and the general public, and may make all lawful uses of the *Property* not inconsistent with the easements described and conveyed herein.

10. This Easement and all of its covenants and conditions shall be binding upon Grantor and its agents, personal representatives, heirs, successors and assigns, and shall continue as a servitude running in perpetuity with the *Property*.

11. The designations Grantor and Town shall include the parties, their heirs, successors and assigns.

12. Grantor and signatories acting on its behalf warrant and covenant that (i) Grantor's title to the *Property* is free and discharged from all right, title, claim or interest of the Grantor or anyone claiming by, through or under Grantor; (ii) Grantor will hold harmless, indemnify and defend Grantee from such claims; and (iii) all signatories executing this instrument on behalf of Grantor have authority to do so.

IN WITNESS WHEREOF this instrument is executed by the **Grantor** under seal, and if an entity, **Grantor** has caused this instrument to be signed in the entity name by its duly authorized agent and its seal to be hereunto affixed, and IN TESTIMONY WHEREOF, the **Grantor** has executed this Easement this the _____ day of _____, 20_____.

Signature:

Print Name:

STATE OF _____

COUNTY OF _____

I, _____,

a Notary Public of the County and State aforesaid, certify that _____

personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this _____ day of _____, 20_____.

Notary Public

My commission expires:

(SEAL)