



Town of Westport
Planning Board
856 Main Road
Westport, MA 02790

www.westport-ma.gov
planning@westport-ma.gov

Tel: (508) 636-1037
Fax: (508) 636-1031

Form F - COVENANT

Application No. _____

Date _____

COVENANT

KNOW ALL MEN by these presents that the undersigned has submitted an application dated _____ to the Westport Planning Board for approval of a definitive plan of a subdivision of land entitled: _____ plan by: _____ dated: _____ owned by: _____ address: _____ land located: _____, and showing _____ proposed lots. The undersigned has requested the Planning Board to approve such plan without requiring a performance bond.

IN CONSIDERATION of said Planning Board of Westport, in the County of Bristol, State of Massachusetts, approving said plan without requiring a performance bond, the undersigned hereby covenants and agrees with the inhabitants of the Town of Westport as follows:

1. That the undersigned is the owner* in fee simple absolute of all the land included in the subdivision and that there are no mortgages of record or otherwise on any of the land, except for those described below, and that the present holders of said mortgages have assented to this contract prior to its execution by the undersigned.

*If there is more than one owner, all must sign. "Applicant" may be an owner or his agent or representative, or his assigns, but the owner of record must sign the covenant.

2. That the undersigned will not sell or convey any lot in the subdivision or erect or place any permanent building on any lot until the construction of ways and installation of municipal services necessary to adequately serve such lot has been completed in accordance with the covenants, conditions, agreements, terms and provisions as specified in the following:
 - a. The Application for Approval of Definitive Plan (Form C).
 - b. The Subdivision Control Law and the Planning Board's Rules and regulations governing this subdivision.
 - c. The certificate of approval and the conditions of approval specified therein, issued by the Planning Board, dated _____.
 - d. The definitive plan as approved and as qualified by the certificate of approval.
 - e. Other document (s) specifying construction to be completed, namely:

However, a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell or convey any lot, subject only to that portion of this covenant which provides that no lot be sold or conveyed or shall be built upon until ways and services have been provided to serve such lot.

3. That this covenant shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned and shall constitute a covenant running with the land included in the subdivision and shall operate as restrictions upon the land.
4. That particular lots within the subdivision shall be released from the foregoing conditions upon the recording of a certificate of performance executed by a majority of the Planning Board and enumerating the specific lots to be released.
5. That nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board.
6. That the undersigned agrees to record this covenant with the Bristol County Southern District Registry of Deeds, forthwith, or to pay the necessary recording fee to the said Planning Board in the event the Planning Board shall record this agreement forthwith. Reference to this covenant shall be entered upon the definitive subdivision plan as approved.
7. A deed of any part of the subdivision in violation of the covenant shall be voidable by the grantee prior to the release of the covenant; but not later than three (3) years from the date of such deed, as provided in Section 81-U, Chapter 41, M.G.L.
8. That this covenant shall be executed before endorsement of approval of the definitive plan by the Planning Board and shall take effect upon the endorsement of approval.
9. Upon final completion of the construction of ways and installation of municipal services as specified herein, on or before _____
(*date when construction and installation is to be completed*) the Planning Board shall release this covenant by an appropriate instrument, duly acknowledged. Failure to complete construction and installation within the time specified herein or such later date as may be specified by vote of the Planning Board with a written concurrence of the applicant may result in rescission of the approval of the plan. Upon performance of this covenant with respect to any lot, the Planning Board may release such lot from this covenant by an appropriate instrument duly recorded.
10. Nothing herein shall prohibit the applicant from varying the method of securing the construction of ways and installation of municipal services from time to time or from securing by one, or in part by one and in part by another of the methods described in M.G.L., Chapter 41, Section 81-U, as long as such security is sufficient in the opinion of the Planning Board to secure performance of the construction and installation.

For title to the property, see deed from _____,
_____, dated _____,
recorded in the Bristol County Southern District Registry of Deeds, Book _____, Page _____
or registered in the Bristol County Southern District Land Registry as Document No. _____,
and noted on certificate of title no. _____, in Registration Book _____, Page _____.

Application No. _____

FORM F

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The present holder of a mortgage upon the property is _____ of _____.

The mortgage is dated _____ and recorded in the Bristol County Southern District Registry of Deeds, Book _____, Page _____, or Document No. _____, and noted on certificate of title no. _____, in Registration book _____, Page _____. The mortgagee agrees to hold the mortgage subject to the covenants set forth above and agrees that the covenants shall have the same status, force and effect as though executed and recorded before the taking of the mortgage and further agrees that the mortgage shall be subordinate to the above covenant.

_____, spouse of the undersigned applicant hereby agrees that such interest as I, we, may have in the premises shall be subject to the provisions of this covenant and insofar as is necessary releases all rights of tenancy by the dower or homestead and other interests therein.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ day of _____, 20____.

WESTPORT PLANNING BOARD

James Whitin - Chairman

Robert Daylor – Vice-Chairman

John Bullard

Mark L. Schmid

Manuel Soares

Application No. _____

01/17

(For Planning Board use)

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

Westport, MA

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as members of the Planning Board of the Town of Westport.

NOTARY PUBLIC

My commission expires _____

Signature of Owner or Owners

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

On this ____ day of _____, 20____, before me, the undersigned Notary Public, personally appeared _____, _____ proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

NOTARY PUBLIC

My commission expires _____

Application No. _____

Signature of spouse

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss. _____

On this ____ day of _____, 20____, before me, the undersigned Notary Public, personally appeared _____, proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

NOTARY PUBLIC

My commission expires _____

Mortgagee or authorized representative

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss. _____

On this ____ day of _____, 20____, before me, the undersigned Notary Public, personally appeared _____ proved to me through satisfactory evidence of identification, which were _____ to be the person whose name is signed on the preceding or attached document and acknowledged to me that he/she signed it voluntarily for its stated purpose.

NOTARY PUBLIC

My commission expires _____

Application No. _____