



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

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**RESTRICTIVE COVENANT**  
**for**  
**Flexible Frontage Special Permit – Section 8.6 Westport Zoning By-Laws**

Application No. \_\_\_\_\_ Date \_\_\_\_\_

This restrictive covenant is granted this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, with a mailing address of \_\_\_\_\_ (“Grantor”), to the Town of Westport, situated in Bristol County, Massachusetts, with a mailing address of 816 Main Road, Westport, MA 02790 (“Grantee” or “Town”).

WHEREAS, the Grantor is the owner of a certain parcel of land (the “Premises”) situated in the Town of Westport as shown on a plan of land entitled “\_\_\_\_\_”, dated \_\_\_\_\_, prepared by \_\_\_\_\_, and recorded with the Bristol Southern District Registry of Deeds in Plan Book \_\_\_\_\_, Page \_\_\_\_\_ Plan No. \_\_\_\_\_ (the “Plan”), and described in that deed to Grantor dated \_\_\_\_\_, and recorded with said Registry in Book \_\_\_\_\_, Page \_\_\_\_;

WHEREAS, in accordance with Section 8.6.4 of the Town of Westport Zoning By-laws (the “By-laws”), the Grantor applied to the Westport Planning Board for a special permit to reduce frontage requirements ordinarily applicable to the lot or lots that make up the Premises;

WHEREAS, the Planning Board approved Grantor’s application and issued a special permit to Grantor dated \_\_\_\_\_, and recorded with the abovesaid Registry in Book \_\_\_\_\_, Page \_\_\_\_ (the “Special Permit”);

WHEREAS, as a condition of the Special Permit, and in accordance with the requirements of Section 8.6.4 of the By-laws, Grantor is required to grant to the Town a restriction providing that the Premises as shown on the Plan shall not be further divided and that the lot clearing and building locations shown on the Plan shall not change;

**NOW THEREFORE**, for the purposes set forth above and in consideration of the issuance of the Special Permit, Grantor hereby covenants and declares on behalf of itself, its successors in interest, assigns, and all other parties who now have or may hereafter take a legal or equitable interest in any portion of the Premises, to and in favor of the Town, that from the date this covenant is recorded, and forward in perpetuity, the Premises shall be held, conveyed, acquired, encumbered and occupied subject to the following restrictions:

1. The Premises as shown on the Plan shall not be divided and the boundaries of any and all lots depicted thereon shall not be changed;

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2. Clearing of trees and other vegetation from the Premises shall conform to the Special Permit and the Plan, and more specifically shall be limited to the following:

[Ex. Clearing for Lot 6 shall be limited to the building envelope shown on the Plan and an additional clearing area up to 40,000 s.f. located east of the easterly bordering vegetated wetland buffer zone]

3. Placement of buildings and other structures and improvements on the Premises shall conform to the Special Permit and the Plan, as applicable, and shall be more specifically located as (applicable) follows:

[Ex. ]

4. Grantor, its successors and assigns, agrees to incorporate the terms of this Covenant in any agreement (including a purchase and sale agreement), deed or other legal instrument by which it divests or agrees to divest itself of any interest in all or a portion of the Premises, including without limitation, a leasehold interest. However, the failure to so incorporate shall not in any respect be deemed to cause a failure or impairment of the legal effect of this Covenant. The Grantor shall give prompt notice to the Grantee of any such transfer.
5. The covenants and restrictions contained herein shall constitute a covenant running with the land and operate as restrictions upon the Premises, and shall bind and inure to the benefit of, and be enforceable by the Town, its representatives, agents, successors and assigns. They shall apply to the Grantor and its successors and assigns, including any association or entity that may be formed to control or maintain the property, and to such successors and assigns as may hereafter exist as a result of a foreclosure or of a bankruptcy.
6. Said covenants and restrictions are intended to benefit both the Grantor and the Town, and Grantor, by its signature below, states and acknowledges that such benefits are both actual and substantial, and covenants on behalf of itself and its successors and assigns that it shall not claim otherwise during the term of the covenant.
7. Legal Remedies of Grantee.
  - (a) The Town shall have access to all remedies in law or equity as are necessary and proper to enforce the covenants granted herein, including, but not limited to, halting or preventing the violation of the covenants by injunction or other lawful procedure, and requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that the Town may have no adequate remedy at law), which shall be in addition to, and not in limitation of, any other rights and remedies available to the Town.
  - (b) Grantor covenants and agrees to reimburse the Town for all reasonable costs and expenses (including without limitation reasonable counsel fees) incurred in enforcing this Covenant or in taking reasonable measures (authorized hereunder or by law or in equity) to remedy or abate any violation hereof, provided that (i) it is acknowledged by Grantor in writing that a violation of the Covenant shall have occurred, or (ii) the Town is the prevailing party in a resulting enforcement action.

(c) By its acceptance of this Covenant, the Town does not undertake any liability or obligation relating to the condition or use of the Premises.

(d) Enforcement of the terms of this Covenant shall be at the discretion of the Town, and any forbearance by the Town to exercise its rights under this Covenant shall not be deemed or construed to be a waiver of such rights.

8. Access. The Town shall have the right to enter upon the Premises to inspect the same for compliance with the terms of this Covenant and to abate or remediate any violations of this Covenant.
9. Grantor agrees that this covenant shall be considered an “other restriction held by a governmental body,” as that term is used in G.L. c. 184, § 26, and thus not subject to the limitations on the enforceability of restrictions in G.L. c. 184, § 26-30, and, in any event, shall be enforceable for a period of not less than ninety-nine (99) years from the recording hereof; nevertheless, if recording of a notice is ever needed to extend the time period for enforceability of this covenant, Grantor hereby appoints the Town as its agent to execute and record such notice and agrees to execute and record such notice upon request.
10. Mortgagee Consent and Subordination. Grantor represents and warrants that it is the sole owner in fee simple absolute of the Premises, and that it has obtained the consent and subordination of all existing mortgagees and lienholders of the Premises to the execution and recording of this covenant and to the terms and conditions hereof, that all such mortgagees and lienholders have executed a consent and subordination to this covenant, and that all such consents and subordinations shall be recorded simultaneously herewith. If this covenant is recorded subsequent to any such mortgage or lien, Grantor shall obtain and record the subordination of any such mortgage or lien to this covenant as if this covenant were recorded prior to the recording of such mortgage or lien.
11. Any amendments to this covenant must be in writing and executed by all of the parties hereto.
12. If any provision of the herein covenant is held invalid by a court of competent jurisdiction, the remainder of the Covenant, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected, and shall remain in full force and effect. Grantor on behalf of itself and its successors and assigns agrees that it shall take any and all actions in conjunction with the Grantee to remedy the defect including but not limited to seeking legislative authority to render the restriction enforceable.
13. The covenants contained herein shall be governed by the laws of the Commonwealth of Massachusetts.

EXECUTED as a sealed instrument as of the date and year first written above.

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\_\_\_\_\_  
[ENTITY]  
\_\_\_\_\_

\_\_\_\_\_  
By:  
Its:

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss. \_\_\_\_\_, 20\_\_

Then before me, the undersigned notary public, personally appeared \_\_\_\_\_  
\_\_\_\_\_, proved to me through satisfactory  
evidence of identification, which were \_\_\_\_\_  
\_\_\_\_\_, to be the person(s) whose name(s) is/are signed on the  
preceding or attached document, and acknowledged to me that he/she/they signed it voluntarily  
for its stated purpose.

\_\_\_\_\_  
NOTARY PUBLIC  
My commission expires: \_\_\_\_\_

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ACCEPTANCE

The Planning Board of the Town of Westport, pursuant to the authority granted to it by Section 23.4 of the Town of Westport Zoning By-laws, and any other authority in any way appertaining, hereby accepts the foregoing Restrictive Covenant from \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

TOWN OF WESTPORT  
PLANNING BOARD

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

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

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_

\_\_\_\_\_, member of the Planning Board of the Town of Westport, as aforesaid, who proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, 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 on behalf of the Town of Westport.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_

ACCEPTANCE

The Board of Selectmen of the Town of Westport, pursuant to the authority granted to it by the vote under Section \_\_ of the \_\_\_\_\_ Annual Town Meeting, a certified copy of which is attached hereto, G.L. c.40, § 14, and any other authority in any way appertaining, hereby accepts the foregoing Restrictive Covenant from \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

TOWN OF WESTPORT,  
BOARD OF SELECTMEN

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

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

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me, the undersigned Notary Public, personally appeared \_\_\_\_\_, member of the Board of Selectmen of the Town of Westport, as aforesaid, who proved to me through satisfactory evidence of identification, which was \_\_\_\_\_, 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 on behalf of the Town of Westport.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires: \_\_\_\_\_