



**TOWN OF WINCHESTER
MIDDLESEX COUNTY, MASSACHUSETTS
PLANNING BOARD
TOWN HALL
WINCHESTER, MASSACHUSETTS 01890
Phone: 781-721-7162 Fax: 781-721-7166**

FORM E-1

COVENANT

KNOW ALL MEN BY THESE PRESENTS, that the undersigned has submitted an application, dated _____, to the Town of Winchester Planning Board for approval of a definitive plan of a subdivision of land, entitled: _____, Plan by: _____, Dated: _____, and Owned by: _____, Address: _____, Land located: _____, and showing _____ (number) of proposed new lots. The undersigned has requested the Planning Board to approve the plan without requiring performance bond.

IN CONSIDERATION of said Planning Board of Winchester in the county of Middlesex approving said plan without requiring performance bond, the undersigned hereby covenants and agrees with the inhabitants of the Town of Winchester as follows:

1. That the undersigned is the owner* in fee simple absolute of all the land included in the subdivision. That there are no mortgages or 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 the ways and installation of municipal services necessary to adequately serve such lot has been completed in accordance with the covenants, condition, agreements, terms and provisions as specified in the following:
 - a. The Application for Approval of the 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 and 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 not lot to 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 all of the lots not previously released by the Planning Board.
6. That the undersigned agrees to record this covenant within the Middlesex County Registry of Deeds, forthwith, or to pay the necessary recording fee to the said Planning Board in the event that 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 subdivision plan by the Planning Board and shall take effect upon the endorsement of approval.
9. Upon final completion of the construction of the way and installation of municipal services as specified herein, on or before _____ (Planning Board dates for construction and installation 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, shall result in automatic 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 81U, as long as such security is sufficient in the opinion of the Planning Board to secure performance of the construction and installation of the ways and municipal services.

For title to the property, see deed from _____, dated _____ and recorded in Middlesex South Registry of Deeds, Book _____, Page _____ or registered title no. _____, in Registration Book _____, Page _____.

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

The mortgage is dated _____ and recorded in the Middlesex South Registry of Deeds, Book _____, Page _____, or registered in Middlesex Land Registry as Document No. _____, in Registration Book No. _____, 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 interest herein.

IN WITNESS WHEREOF we have hereunder set our hands and seal this _____ day of _____, 20_____.

OWNER

SPOUSE OF OWNER

MORTGAGE

Acceptance: Majority of Winchester
Planning Board

One acknowledgement must be completed for each of the following:

Planning Board representative

Owner or owners

Spouse of owner

Mortgagee

COMMONWEALTH OF MASSACHUSETTS

_____, ss _____, 20____

Then personally appeared the above named _____
and acknowledged the foregoing instrument to be his free act and deed, before me.

Notary Public

My commission expires _____