

**PLANNING BOARD
TOWN OF BURLINGTON, MASSACHUSETTS
FORM H
RESTRICTIVE COVENANT**

Two (2) copies of this form, filled out and signed by
the owner of record, should be submitted before
endorsement of the approved subdivision plan.

(date)

To the Planning Board:

The undersigned, hereinafter called the "Covenantor", having submitted to the Burlington Planning Board for approval a Definitive Plan of a subdivision entitled _____, plan prepared by _____, dated _____, owned by _____, address _____, land located _____ and shown on the Town Assessor's Map[s] _____, as Parcel[s] _____ and showing _____ proposed lots, does hereby covenant and agree with said Board and the successors in office of said Board, pursuant to Massachusetts General Laws, Chapter 41, Section 81-U, as amended, that:

1. 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 subordinate to this Covenant, 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/her/its agent or representative, or assigns, but the owner of record must sign the Covenant.**

2. The undersigned will not sell or convey any lot in the subdivision or erect or place any permanent buildings on any lot until the construction of ways and installation of municipal services necessary to adequately serve such lot[s] 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 Subdivision Plan (Form C) dated _____
- 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 Subdivision Plan as approved and as qualified by the Certificate of Approval.

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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[s] subject only to that portion of this covenant which provides that no lot[s] be sold or conveyed or shall be built upon until ways and services have been provided to serve such lot[s].

3. 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. Particular lots within the subdivision shall be released from the foregoing conditions only upon recording of a Certificate of Performance (Form G or Form G-1) executed by the Planning Board and enumerating the specific lot[s] to be released.
5. 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 lots not previously released by the Planning Board.
6. The undersigned agrees to record this covenant with the _____ County Registry of Deeds, forthwith. Reference to this covenant shall be entered upon the Definitive Subdivision Plan as approved, prior to the endorsement by the Planning Board.
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 Massachusetts General Laws, Chapter 41, Section 81-U.
8. 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 determination by the Planning Board that the construction of ways and installation of municipal services, as specified herein, have been satisfactorily completed on or before _____ the Planning Board shall release this covenant by an appropriate instrument, duly acknowledged. Failure to complete construction and installation within the time specified herein, shall be grounds for rescission of the approval of the Definitive Subdivision Plan.
10. The Covenantor hereby agrees to remain solely responsible for maintaining the access to any lots released from this covenant. This includes, but is not limited to, snow removal and sanding. This agreement will remain in effect unless otherwise changed by acceptance of the way[s] by Town Meeting vote.

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11. 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 Massachusetts General Laws, Chapter 41, Section 81-U, as long as such security is sufficient in the opinion of the Planning Board to secure full performance of the construction and installation.

For title to the property, see deed from _____
dated _____, recorded in the _____ County Registry
of Deeds, Book _____, Page _____, or registered in _____
County Land Registry as Document No. _____
_____, and noted on Certificate of Title No. _____.

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

The mortgage is dated _____ and recorded in _____
County Registry of Deeds, Book _____, Page _____, or registered in _____
County Land Registry as Document No. _____, and noted
on Certificate 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 taking of the mortgage and further agrees that the mortgage shall
be subordinate to the above covenant.

IN WITNESS WHEREOF WE HEREUNTO SET OUT HANDS AND SEAL

THIS _____ DAY OF _____.

(Print name of signator[s])

Signature of Owner[s]

COMMONWEALTH OF MASSACHUSETTS

SS. Date: _____

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

Notary Public

My Commission Expires _____

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(Print name of signator[s])

Signature of Mortgagees or Authorized Representative

COMMONWEALTH OF MASSACHUSETTS

Then personally appeared before me the above named _____ and stated that he/she is the mortgagee/authorized representative and acknowledged the foregoing instrument to be his/her/its free act and deed.

Notary Public

My Commission Expires _____

Majority of the Planning Board _____, Chairman
of the Town of Burlington

COMMONWEALTH OF MASSACHUSETTS

SS.

Date: _____

Then personally appeared _____ one of the above named members of the Planning Board of the Town of Burlington, Massachusetts, and acknowledged the foregoing instrument to be the free act and deed of said Planning Board, before me.

Notary Public

My Commission Expires _____