

INSTRUCTION SHEET

DECLARATION OF SHARED DRIVEWAY MAINTENANCE COVENANT

[Note that the Zoning By-law, Article V, § 196-13(B)(11)(l) allows up to three lots to share a driveway, accordingly, this agreement should be modified where appropriate]

_____, [NAME OF LANDOWNER/ENTITY]
[MAKING DECLARATION]

of _____, [CITY/TOWN, STATE]

("Grantor") for the consideration set forth below, the receipt and sufficiency of which is acknowledged, grants with quitclaim covenants to the TOWN OF BOXFORD, a municipal corporation acting by and through its Zoning Board of Appeals ("Town"), its successors and assigns and those claiming through or under it with an office and place of business at 7A Spofford Road, Boxford, Essex County Massachusetts, a covenant granted in gross with respect to the land described as follows:

The parcel of land divided into ____, [NUMBER OF LOTS SERVED BY THE
COMMON DRIVEWAY, EITHER TWO OR THREE] lots, shown as Lots,
_____, [LOT NAMES i.e. Lots 1, 2 and 6] (collectively referred
to as "Lots" and referred to individually as "Lot") shown on a plan
entitled "_____"
[FULL NAME OF PLAN]
dated ____ __, 20____, prepared by _____
recorded/filed with the Essex South District Registry of Deeds in Book _____,
Page_____,/as Document No. _____
("Plan").

1.) The Grantor covenants and agrees for itself, its heirs/successors and assigns to grant upon the conveyance or other transfer of a Lot or Lots, for the benefit of each lot individually and collectively, the perpetual right and easement to use in common with the owners of one or more of the Lots described above ("Lot Owners") each with the other and their successors that area designated as "Shared Driveway" on the Plan. Said easement shall provide that the Shared Driveway may be used by the Lot Owners for all purposes for which driveways are now or may hereafter be used in the Town of Boxford, including, without limitation, access on foot and by motor vehicle and including the installation, maintenance, replacement, removal and use of underground utility lines including, without limitation, sewers, drains, water mains, gas pipes, electric lines, telephone lines and cable television lines. Said easement shall provide, at a minimum, for the following:

a. The Lot Owners and their successors in title to each and any of the Lots shall have the right to use and enjoy the Shared Driveway for the purposes stated in the easement, in common with the other Lot Owners;

b. If, in connection with the exercise of said easement right in the Shared Driveway, any Lot Owner shall make any excavations within the Shared Driveway, the Lot Owner so excavating will, as soon as possible, restore the Shared Driveway to its condition immediately prior to the excavation;

c. Each Lot Owner will indemnify and save the others harmless from and against any loss, damage or liability arising out of the exercise of the rights granted herein;

d. Each Lot Owner shall be responsible for _____ [50% IF TWO LOTS, 33 1/3% IF THREE LOTS] of the cost of maintenance of the Shared Driveway, including without limitation, maintenance of the driveway surface and snow removal. Sodium chloride is prohibited. Calcium chloride must be used for de-icing Shared Driveway. As between the Town of Boxford and the Lot Owners, the Lot Owners shall bear 100% responsibility, joint and severally, for maintenance and repair of the Shared Driveway. Stone bollards must be used to mark Shared Driveway and maintained;

e. No Lot Owner shall use the Shared Driveway so as to hinder or prohibit or unreasonably interfere with or interrupt the use of the Shared Driveway by others entitled thereto; and

2.) The Grantor agrees and covenants for itself, its heirs/successors and assigns and those claiming through or under them, to the following covenants, which are hereby imposed for the benefit of the Town of Boxford and which shall be administered and enforced by its Zoning Board of Appeals, in consideration of the Town's granting of a special permit pursuant to the Boxford Zoning By-law, Article V, § 196-13(B)(11)(l) and as amended subsequently of the Code of the Town of Boxford, and for additional consideration, the receipt and sufficiency of which is acknowledged, as follows:

a. The Shared Driveway shall be constructed in conformance with the special permit granted by the Boxford Zoning Board of Appeals and used in compliance with the Boxford Zoning By-law, Article V, § 196-13(B)(11)(l) and as amended subsequently of the Code of the Town of Boxford;

b. The Town of Boxford shall have no responsibility for maintenance of the Shared Driveway and there shall be no plowing of the Shared Driveway or trash pickup within the Shared Driveway by the Town of Boxford. As between the Town of Boxford and the Lot Owners, the Lot Owners shall bear 100% responsibility, joint and severally, for maintenance and repair of the Shared Driveway;

c. The Lot Owners shall never request the Town of Boxford to maintain, or plow the Shared Driveway, as it is the intent of the Grantor and the Town of Boxford that the Shared Driveway shall be a private easement and shall never be considered or accepted as a public way or private way open to the public;

d. This covenant shall be referenced by book and page/document number in each deed executed by the Grantor for the conveyance or other instrument of transfer of one or all of the Lots shown on the Plan;

e. Each deed of conveyance or other instrument of transfer of a Lot or Lots executed by the Grantor shall include the grant of an easement or reference to a grant of easement agreement conforming to the terms of this Covenant;

f. In the exercise of the rights and obligations granted hereunder, each Lot Owner shall comply with all applicable laws, statutes, regulations and bylaws now or hereafter in effect;

g. The Lot Owners agree never to rescind or modify this Declaration of Shared Driveway Maintenance Covenant unless approved by the Zoning Board of Appeals of the Town of Boxford; and

h. The Grantor and its heirs/successors and assigns shall forego any action at law or equity attempting to contest the validity of any provision of the covenants contained herein and shall not, in any enforcement action, raise the invalidity of any provision of said covenants as a defense. If any provision of said Covenant shall nevertheless to any extent be held invalid, the remainder shall not be affected.

i. The Grantor agrees to record this covenant with the Essex South District Registry of Deeds within seven business days after the Boxford Zoning Board of Appeals approves the special permit in accordance with the Boxford Zoning Bylaws, Article V, § 196-13(B)(11)(l), but in any event prior to the conveyance or other transfer of any interest in one or more of the Lots. The Grantor further agrees to provide the Boxford Zoning Board of Appeals with a copy of the recorded covenant within seven business days of its recording.

The covenants and obligations contained herein shall be enforceable by the Lot Owners and the Town of Boxford, acting by and through its Zoning Board of Appeals. The Town shall have the option to enforce said covenants, but does not have the obligation to do so. Any election by the Town as to the manner and timing of its right to enforce these covenants or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

IN WITNESS HEREOF _____, has executed this document under seal this ____ day of ____, 20 ____.

GRANTOR(S)

NAME OF GRANTOR

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

_____, 20__

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

_____, Notary Public
My commission expires _____