



**CITY OF HAVERHILL
CITY COUNCIL AGENDA
August 2, 2023 at 6:30 PM**

Theodore A. Pelosi, Jr. Council Chambers, 4 Summer st, Room 202

**Special Meeting
Remote Only**

This meeting/hearing of Haverhill City Council will be held remotely at the location provided on this notice. Members of the public are welcome to attend this remote meeting. Please note the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law. Members of the public with particular interest in any specific item on this agenda should make plans for virtual attendance accordingly.

<https://meet.google.com/mhj-onfn-pmp>

Or open Meet and enter this code: mhj-onfn-pmp

Dial in (audio only): (US) +1 470-466-0250 PIN: 974 243 467#

More phone numbers: <https://https%3A//tel.meet/mhj-onfn-pmp?pin=5378184786897>

- 1. OPENING PRAYER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ASSIGNMENT OF THE MINUTES REVIEW FOR THE NEXT MEETING**
- 4. COMMUNICATIONS FROM THE MAYOR:**
 - 4.1. Mayor Fiorentini submits Order to approve and accept the Conservation Restriction on the land described as 908 West Lowell Avenue, Haverhill, Massachusetts, granted to the Essex County Greenbelt Association, Inc, a Massachusetts not for profit corporation, and to approve the Conservation Commission's municipal certification dated June 1, 2023, accepting said Conservation Restriction
 - 4.1.1. Order – Haverhill City Council approve and accept the Conservation Restriction on the land described as 908 West Lowell Avenue

Related communication from Maggie Brown of Essex County Greenbelt Association

- 5. ADJOURN :**

JAMES J. FIORENTINI
MAYOR



**CITY OF HAVERHILL
MASSACHUSETTS**

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July 31, 2023

HAU CITY CLERK JUL31'23 AM 9:37

City Council President Timothy J. Jordan and Members of the Haverhill City Council

**RE: Order to Approve and Accept the Conservation Restriction on Land Described at
908 West Lowell Avenue**

Dear Mr. President and Members of the Haverhill City Council:

Please see attached an order to approve and accept the Conservation Restriction for the protection of the land described at 908 West Lowell Avenue. If approved, this would preserve the property for conservation, open space, water supply protection and passive recreation. I recommend approval.

Very truly yours,

James J. Fiorentini
Mayor

JJF/lyf



DOCUMENT

CITY OF HAVERHILL

In Municipal Council

ORDERED:

HAVERHILL CITY COUNCIL

That the City Council votes to accept the Conservation Restriction on the land described as 908 West Lowell Avenue, Haverhill, Massachusetts, granted to the Essex County Greenbelt Association, Inc., a Massachusetts not for profit corporation, and to approve the Conservation Commission's municipal certification dated June 1, 2023, accepting said Conservation Restriction presented to the City Council on _____.

YEAS: _____

NAYS: _____

ABSENT: _____

PASSED IN COUNCIL: _____

A True Record, Attest:

Date Approved

Kaitlin M. Wright, City Clerk

James J. Fiorentini, Mayor

GRANTOR: Mark W. Sullivan and Karen D. Sullivan
GRANTEE: Essex County Greenbelt Association, Inc.
ADDRESS OF PREMISES: 908 West Lowell Avenue, Haverhill, MA
FOR GRANTOR'S TITLE SEE: Southern Essex District Registry of Deeds at Book 36602, Page 328.

GRANT OF CONSERVATION RESTRICTION

I. STATEMENT OF GRANT

Mark W. Sullivan and Karen D. Sullivan, with an address of 95 Lake Street, Haverhill, MA being the joint owners of the Premises as defined herein, constituting all of the owners of the Premises as defined herein, for our successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant, with QUITCLAIM COVENANTS, to Essex County Greenbelt Association, Inc., a Massachusetts not-for-profit corporation, with an address of 82 Eastern Avenue, Essex, Massachusetts, their permitted successors and assigns ("Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in Haverhill containing an approximately 4.3-acre portion ("Premises") of an approximately 5.1-acre property, which Premises is shown as "Conservation Restriction Area" on a survey plan entitled "Plan of Land for Conservation Restriction Area 908 West Lowell Avenue Haverhill, Massachusetts" prepared by LeBlanc Survey Associates, Inc., dated January 12, 2023 (the "Plan"), recorded at the Southern Essex District Registry of Deeds Plan Book ____ Page ____, a reduced copy of which Plan is incorporated herein and attached hereto as Exhibit A. The area shown on the Plan as "Exclusion Area" is excluded from the Premises and therefore is not subject to this Conservation Restriction.

II. PURPOSES:

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purposes of this Conservation Restriction ("Purposes") are to ensure that the Premises will be maintained in perpetuity in its natural, scenic, or open condition, and for agricultural uses, and to prevent any use or change that would materially impair the Conservation Values (as defined below).

The Conservation Values protected by this Conservation Restriction include the following:

- A. Open Space. The Premises contributes to the protection of the scenic and natural character of Haverhill and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts the 25.7-acre Anton Conservation Restriction held by the Grantee.
- B. Soils and Soil Health. The Premises includes 3+/- acres of Prime Farmland and 4+/- acres of Prime 1 Forest Land as identified by the USDA Natural Resources Conservation Service. The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws.
- C. Working Farmland. The protection of the Premises will ensure that the open fields contained on the Premises will be permanently available for agriculture that is consistent with the Purposes.
- D. Consistency with Clearly Delineated Federal, State, or Local Governmental Conservation Policy. Protection of the Premises furthers the City of Haverhill's Open Space and Recreation Plan (2016-2023), specifically to "Improve the City's acquisition and protection of lands of open space and recreation interest" (Goal 6), and "Promote the preservation of the City's agricultural resources" (Goal 10).

III. PROHIBITED and PERMITTED ACTS AND USES

A. Prohibited Acts and Uses

The Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

- 1. Structures and Improvements. Constructing, placing, or allowing to remain any temporary or permanent structure including without limitation any building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, graveled area, roads, sign, fence, gate, billboard or other advertising, antenna, utilities or other structures, utility pole, tower, solar panel, solar array, conduit, line, septic or wastewater disposal system, storage tank, or dam;
- 2. Extractive Activities/Uses. Mining, excavating, dredging, withdrawing, or removing soil, loam, peat, gravel, sand, rock, surface water, ground water, or other mineral substance or natural deposit, or otherwise altering the topography of the Premises;
- 3. Disposal/Storage. Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings, liquid or solid waste or other substance or material whatsoever;
- 4. Adverse Impacts to Vegetation. Cutting, removing, or destroying trees, shrubs, grasses or other vegetation;

5. Adverse Impacts to Water, Soil, and Other Features. Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, natural habitat, archaeological conservation, or ecosystem function;
6. Introduction of Invasive Species. Planting or introducing any species identified as invasive by the Massachusetts Invasive Plant Advisory Group or identified as invasive in such recognized inventories as the Massachusetts Introduced Pests Outreach Project, the Northeast Aquatic Nuisance Species Panel, or other such inventories, and any successor list as mutually agreed to by Grantor and Grantee;
7. Motor Vehicles. Using, parking, or storing motorized vehicles, including motorcycles, mopeds, all-terrain vehicles, off-highway vehicles, motorboats or other motorized watercraft, snowmobiles, launching or landing aircraft, or any other motorized vehicles, acknowledging that vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) may have a legal right to enter the Premises;
8. Subdivision. Subdividing or conveying a part or portion of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), it being the Grantor's and Grantee's intention to maintain the entire Premises under unified ownership;
9. Use of Premises for Developing Other Land. Using the Premises towards building or development requirements on this or any other parcel;
10. Adverse Impacts to Stone Walls, Boundary Markers. Disrupting, removing, or destroying stone walls, granite fence posts, or any other boundary markers;
11. Residential or Industrial Uses. Using the Premises for residential or industrial purposes;
12. Inconsistent Uses. Using the Premises for commercial purposes that are inconsistent with the Purposes or that would materially impair the Conservation Values, or for any other uses or activities that are inconsistent with the Purposes or that would materially impair the Conservation Values.

B. Permitted Acts and Uses

Notwithstanding the Prohibited Acts and Uses described in Paragraph III.A., the Grantor may conduct or permit the following acts and uses on the Premises, provided they do not materially impair the Purposes and/or Conservation Values. In conducting any Permitted Act and Use, Grantor shall minimize impacts to the Conservation Values to ensure any such impairment thereto is not material.

1. Agricultural Activities.
 - a. Permitted Activities. "Agricultural Activities" are collectively defined as "Animal Husbandry" and "Horticulture," defined below:

- i. Animal Husbandry. Raising animals, including but not limited to dairy cattle, beef cattle, poultry, sheep, swine, horses, ponies, mules, goats, and bees, for the purpose of using, consuming, or selling such animals or a product derived from such animals in the regular course of business; or when primarily and directly used in a related manner which is incidental thereto and represents a customary and necessary use in raising such animals and preparing them or the products derived therefrom for use, consumption, or market.
 - ii. Horticulture. Raising fruits, vegetables, berries, nuts, and other foods for human consumption, feed for animals, flowers, trees, nursery or greenhouse products, and ornamental plants and shrubs, all for the purpose of selling such products in the regular course of business; or when primarily and directly used in raising forest products under a Forest Stewardship Plan designed to improve the quantity and quality of a continuous crop for the purpose of using, consuming, or selling these products in the regular course of business; or when primarily and directly used in a related manner which is incidental to those uses and represents a customary and necessary use in raising such products and preparing them for use, consumption, or market.
- b. Requirement to Follow Best Agricultural Practices. Agricultural Activities shall be conducted in a manner consistent with generally accepted best management practices for sustainable farming as those practices may be identified from time to time by appropriate governmental or educational institutions such as the USDA Natural Resources Conservation Service (NRCS), UMass Extension, Northeast Organic Farming Association (NOFA), Massachusetts Department of Agricultural Resources, and the like, (collectively, “Best Agricultural Practices”) and in a manner that promotes healthy soils and healthy soil practices, as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws (“Healthy Soils and Practices”), and in a manner that does not hinder the ability of future generations to engage in Agricultural Activities on the Premises;
- c. Requirement for a Farm Conservation Plan. Any expansion of existing Agricultural Activities, which as of the date of this Conservation Restriction consists of approximately 0.5-acre of orchard, as documented in the Baseline Report, or change in such currently existing activity to a substantially different Agricultural Activity shall require a farm conservation plan, such as an NRCS Conservation Plan (“Farm Conservation Plan”), prepared for the Premises, and approved in writing by the Grantee. The Farm Conservation Plan shall be developed in accordance with generally-accepted Best Agricultural Practices, and shall, at a minimum, address the following:
 - i. establish wetland buffers and/or filter strips to prevent adverse impacts to the water quality of existing wetlands and waterways;

- ii. in the event animal husbandry activities are proposed, establish and govern the type and number of each type of animal unit permitted on the Premises, and analyze the pasturage potential of the Premises and establish and govern the cycling of pasturage, and any other measures necessary to ensure the carrying capacity of the Premises is not exceeded in order to protect water quality, prevent soil erosion, and otherwise protect the Conservation Values; and
- iii. describe how Agricultural Activities will maximize soil and water conservation, and promote Healthy Soils and Practices.

d. Agricultural Structures and Improvements.

- i. Maintaining, using, repairing, replacing, and/or expanding the existing +/-355-square-foot shed as documented in the Baseline Report within substantially the same location, not to exceed the total footprint limit defined below. For the purposes of this Conservation Restriction, the term “footprint” shall mean that measurement encompassing the enclosed ground floor area, as measured from the exterior, at the point of contact with the ground.
- ii. Constructing and maintaining additional structures and improvements to conduct Agricultural Activities, provided:
 - 1. The total footprint of all permanent structures and any temporary structures (as defined below) that have a roof shall not exceed 2,000 square feet in the aggregate. For the purposes of this Conservation Restriction, the term “temporary” shall mean any improvement without a foundation that can be constructed or removed without significant disturbance of the soil.
 - 2. Grantor must obtain prior written approval from the Grantee for the following improvements:
 - a. All permanent and temporary structures that have a roof; and
 - b. Wells, including but not limited to artesian wells, and any irrigation structures that require subsurface installation;

2. Outdoor Passive Recreational and Educational Activities. Hunting, trapping hiking, horseback riding, cross-country skiing, snowshoeing, ice-skating, nature observation, nature and educational walks and outings, outdoor educational activities, and other non-motorized outdoor recreational and educational activities;

3. Trails. Maintaining and constructing trails as follows:

- a. Trail Maintenance. Conducting routine maintenance of trails, which may include widening trail corridors up to six (6) feet in width overall.
- b. New Trails. With prior written approval of the Grantee, constructing new trails or relocating existing trails, provided that any construction or relocation results in trails that conform with the width limitation above.

- c. Trail Features. With prior written approval of the Grantee, constructing bog bridging, boardwalks, footbridges, railings, steps, culverts, benching, cribbing, contouring, or other such features, together with the use of motorized equipment to construct such features;
- 4. Composting. Stockpiling and composting stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises;
- 5. Vegetation Management. Maintaining vegetation, including pruning, trimming, cutting, and mowing, and removing brush, all to prevent, control, and manage hazards, disease, insect or fire damage, and/or in order to maintain the condition of the Premises as documented in the Baseline Report (see Paragraph XV.);
- 6. Non-native, Nuisance, or Invasive species. Removing non-native, nuisance, or invasive species, interplanting native species, and controlling species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
- 7. Natural Habitat and Ecosystem Improvement. With prior written approval of the Grantee, conducting measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, ecosystem function, or rare or endangered species including planting native trees, shrubs, and other vegetation;
- 8. Forest Management.
 - a. Permitted Activities. Conducting sound silvicultural uses of the Premises, including the right to harvest forest products (as such term may be defined from time to time in Section 1 of Chapter 61 of the Massachusetts General Laws, or successor law) or conduct other forest management activities, reestablish historic woods roads and establish new woods roads, and the use of motorized vehicles, all as necessary to conduct such activities (“Forestry Activities”), provided that any Forestry Activities are carried out pursuant to the recommended activities and guidelines and required best management practices established in the Massachusetts Forestry Best Management Practices Manual (Catanzaro, Fish & Kittredge, University of Massachusetts, Amherst & DCR; 2013) and subsequent versions as may be approved by the Massachusetts Bureau of Forest Fire Control and Forestry (“Forestry BMPs”). All Forestry Activities shall avoid any stone structures or historical and cultural resources and shall prevent damage thereto to the extent feasible. All cutting operations shall be supervised by a licensed forester.
 - b. Harvesting For Personal Use. The sustainable cutting of trees only for the Grantor’s personal use, not to exceed 0.5 cord/acre/year or equivalent volume, provided that any such cutting complies with the Forestry BMPs.
- 9. Division. With prior written approval of the Grantee, a single division of the Premises for the purpose of adding the divided section to the adjacent property encumbered by a conservation restriction held by the Grantee and recorded in the Southern Essex District

Registry of Deeds Book 37445 Page 33 (the "West Lowell Avenue Conservation Restriction").

10. Improvements. Constructing, using, maintaining, repairing, improving, or replacing, the existing driveway, yard, parking area, well, and septic system ("Improvements") in substantially the current locations as documented in the Baseline Report and the Plan;
11. Signs. Constructing, installing, maintaining, and replacing signs and informational kiosks with respect to the Permitted Acts and Uses, the Purposes, the Conservation Values, trespass, public access, identity and address of the Grantor, sale of the Premises, the Grantee's interest in the Premises, boundary and trail markings, any gift, grant, or other applicable source of support for the conservation of the Premises;
12. Motorized Vehicles. Using motorized vehicles by persons with mobility impairments and as otherwise permitted herein;
13. Green Energy. With prior written approval of the Grantee, constructing energy producing structures and associated transmission lines that produce negligible or no pollution or carbon emissions ("Green Energy Structures") to supply power for any Permitted Acts and Uses on the Premises. In addition to the terms of Paragraph III.E., when considering whether to grant approval, the Grantee will take into consideration the energy needs related to the relevant Permitted Act(s) and Use(s). While it is agreed that some power may be fed back into the public power grid during high production periods, such Green Energy Structures shall be limited to a capacity not higher than that necessary to meet, or exceed by up to 20% at the time of installation, the power requirements of the Permitted Acts and Uses;
14. Indigenous Cultural Practices. With prior written notice to the Grantee, allowing indigenous peoples to:
 - a. Conduct cultural land ceremonial uses. Cultural practices are defined, for the purposes of this Conservation Restriction, as including traditional spiritual ceremonies, seasonal celebrations, offerings, and cultural, educational, and interpretive programming; and
 - b. Harvest plant-life for traditional cultural practices, using methods which, in the sole judgment of the Grantee, ensure sustainable populations of the harvested species within the Premises, including regrowth and replanting;
15. Archaeological Investigations. Conducting archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only in accordance with an archaeological field investigation plan, which plan shall also address restoration following completion of the archaeological investigation, prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historical Commission State Archaeologist (or appropriate successor official) and by the Grantee. A copy of the results of any such investigation on the Premises is to be provided to the Grantee;

16. Other Activities. Such other activities or uses of the Premises as may be permitted with the prior written approval of the Grantee provided that the Grantee has made a finding, such finding to be documented in writing and kept on file at the office of the Grantee, that such activities are consistent with the Permitted Acts and Uses and, as applicable, are included in an approved Farm Conservation Plan or Forestry Plan, do not impair the Conservation Values and Purposes, and, where feasible, result in a net gain in conservation value of the Premises.

C. Site Restoration

Upon completion of any Permitted Acts and Uses, any disturbed areas shall be restored substantially to the conditions that existed prior to said activities, including with respect to soil material, grade, and vegetated ground cover.

D. Compliance with Permits, Regulations, Laws

The exercise of any Permitted Acts and Uses under Paragraph III.B. shall be in compliance with all applicable federal, state and local laws, rules, regulations, zoning, and permits, and with the Constitution of the Commonwealth of Massachusetts. The inclusion of any Reserved Right requiring a permit, license or other approval from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit, license, or other approval should be issued.

E. Notice and Approval

1. Notifying Grantee. Whenever notice to or approval by Grantee is required, Grantor shall notify or request approval from Grantee, by a method requiring proof of receipt, in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question, unless a different time period is specified herein. The notice shall:
 - a. Describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity;
 - b. Describe how the proposed activity complies with the terms and conditions of this Conservation Restriction, and will not materially impair the Purposes and/or Conservation Values;
 - c. Identify all permits, licenses, or approvals required for the proposed activity, and the status of any such permits, licenses, or approvals.
 - d. Describe any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Purposes and Conservation Values.
2. Grantee Review. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within sixty (60) days of receipt of Grantor's request. Grantee's approval shall only be granted upon a showing that the proposed activity will minimize

impacts to the Conservation Values and will not materially impair the Purposes and/or Conservation Values. Grantee may require Grantor to secure expert review and evaluation of a proposed activity by a mutually agreed upon party.

3. Resubmittal. Grantee's failure to respond within sixty (60) days of receipt shall not constitute approval of the request. Grantor may subsequently submit the same or a similar request for approval.

IV. INSPECTION AND ENFORCEMENT

A. Entry onto the Premises

The Grantor hereby grants to the Grantee, and its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction.

B. Legal and Injunctive Relief

1. Enforcement. The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain compensatory relief, including without limitation, compensation for interim losses (i.e., ecological and public use service losses that occur from the date of the violation until the date of restoration) and equitable relief against any violations, including, without limitation, injunctive relief and relief requiring restoration of the Premises to its condition prior to the time of the injury (it being agreed that the Grantee will have no adequate remedy at law in case of an injunction). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction.
2. Notice and Cure. In the event the Grantee determines that a violation of this Conservation Restriction has occurred and intends to exercise any of the rights described herein, the Grantee shall, before exercising any such rights, notify the Grantor in writing of the violation. The Grantor shall have thirty (30) days from receipt of the written notice to halt the violation and remedy any damage caused by it, after which time Grantee may take further action, including instituting legal proceedings and entering the Premises to take reasonable measures to remedy, abate or correct such violation, without further notice. Provided, however, that this requirement of deferment of action for thirty (30) days applies only if Grantor immediately ceases the violation and Grantee determines that there is no ongoing violation. In instances where a violation may also constitute a violation of local, state, or federal law, the Grantee may notify the proper authorities of such violation.
3. Reimbursement of Costs and Expenses of Enforcement. Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including counsel fees) incurred by the Grantee in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof. In the event of

a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey by a Massachusetts licensed professional land surveyor and to have the boundaries permanently marked.

C. Non-Waiver

Enforcement of the terms of this Conservation Restriction shall be at the sole discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

D. Disclaimer of Liability

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

E. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from natural causes beyond the Grantor's control, including but not limited to fire, flood, weather, climate-related impacts, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

V. PUBLIC ACCESS

This Conservation Restriction does not grant any right of access to the general public and the Grantor retains its rights to prohibit access to the Premises by the general public.

VI. TERMINATION/RELEASE/EXTINGUISHMENT

A. Procedure

If circumstances arise in the future that render the Purposes impossible to accomplish, this Conservation Restriction can only be terminated, released, or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, or successor official ("Secretary"), and any other approvals as may be required by Section 32 of Chapter 184 of the Massachusetts General Laws.

B. Grantor's and Grantee's Right to Recover Proceeds

If any change in conditions ever gives rise to termination, release, or extinguishment of this Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph VI.C., subject, however, to any applicable law which expressly provides for a different disposition of the proceeds, and after complying with the terms of any gift, grant, or funding requirements. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

C. Grantee's Receipt of Property Right

Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction bears to the value of the unrestricted Premises. The proportionate value of the Grantee's property right will be determined as of the date of termination, release, or extinguishment.

D. Cooperation Regarding Public Action

Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Paragraph VI.B. and Paragraph VI.C. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of any proceeds in a manner consistent with the Purposes or the protection of the Conservation Values.

VII. DURATION and ASSIGNABILITY

A. Running of the Burden

The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments

The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. The Grantor, on behalf of itself and its successors and assigns, appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit

The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except when all of the following conditions are met:

1. the Grantee requires that the Purposes continue to be carried out;
2. the assignee is not an owner of the fee in the Premises;
3. the assignee, at the time of the assignment, qualifies under and 26.U.S.C. 170(h), and applicable regulations thereunder, if applicable, and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts General Laws; and
4. the assignment complies with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VIII. SUBSEQUENT TRANSFERS

A. Procedure for Transfer

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the effective date of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. If the Grantor fails to reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, then the Grantee may record, in the applicable registry of deeds, or registered in the applicable land court registry district, and at the Grantor's expense, a notice of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

B. Grantor's Liability

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

IX. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within thirty (30) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

X. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction following the terms set forth in Paragraph VII.C to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

XI. AMENDMENT

A. Limitations on Amendment

Grantor and Grantee may amend this Conservation Restriction only to correct an error or oversight, clarify an ambiguity, maintain or enhance the overall protection of the Conservation Values, or add real property to the Premises, provided that no amendment shall:

1. affect this Conservation Restriction's perpetual duration;
2. be inconsistent with or materially impair the Purposes;
3. affect the qualification of this Conservation Restriction as a "qualified conservation contribution" or "interest in land" under any applicable laws, including 26 U.S.C. Section 170(h), and related regulations;
4. affect the status of Grantee as a "qualified organization" or "eligible donee" under any applicable laws, including 26 U.S.C. Section 170(h) and related regulations, and Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws; or
5. create an impermissible private benefit or private inurement in violation of federal tax law, as determined by an appraisal, conducted by an appraiser selected by the Grantee, of the economic impact of the proposed amendment; or
6. alter or remove the provisions described in Paragraph VI (Termination/Release/Extinguishment); or
7. cause the provisions of this Paragraph XI to be less restrictive; or
8. cause the provisions described in Paragraph VII.C (Running of the Benefit) to be less restrictive

B. Amendment Approvals and Recording

No amendment shall be effective unless documented in a notarized writing executed by Grantee and Grantor, approved by the City of Haverhill and by the Secretary in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, and recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XII. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in the applicable registry of deeds or registered in the applicable land court registry district.

XIII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Mark W. Sullivan and Karen D. Sullivan
95 Lake Street
Haverhill, MA 01832

To Grantee: Essex County Greenbelt Association
ATTN: Director of Stewardship
P.O. Box 1026
Essex, MA 01929

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIV. GENERAL PROVISIONS

A. Controlling Law

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in order to effect the Purposes and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the Purposes that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

D. Entire Agreement

This instrument sets forth the entire agreement of the Grantor and Grantee with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

XV. BASELINE DOCUMENTATION REPORT

The Conservation Values, as well as the natural features, current uses of, and existing improvements on the Premises, such as, but not limited to, trails, woods roads, structures, meadows or other cleared areas, agricultural areas, and scenic views, as applicable, are described in a Baseline Documentation Report ("Baseline Report") prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and included by reference herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein, and (iv) may be supplemented as conditions on the Premise change as allowed over time. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant in addition to the Baseline Report.

XVI. MISCELLANEOUS

A. Pre-existing Public Rights

Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary, is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B. Release of Homestead

The Grantor hereby agrees to waive, subordinate, and release any and all Homestead rights pursuant to Chapter 188 of the Massachusetts General Laws it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to Section 10(e) of Chapter 188 of the Massachusetts General Laws.

C. Subordination

The Grantor shall record at the applicable registry of deeds or shall register in the applicable land court registry district simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

D. Executory Limitation

If Grantee shall cease to exist or to be qualified to hold conservation restrictions pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws, or to be qualified organization under 26 U.S.C. 170(h), and applicable regulations thereunder, if applicable, and a prior assignment is not made pursuant to Paragraph VII, then Grantee's rights and obligations under this Conservation Restriction shall vest in such organization as a court of competent jurisdiction shall direct pursuant to the applicable Massachusetts law and with due regard to the requirements for an assignment pursuant to Paragraph VII.

E. Prior Encumbrances

This Conservation Restriction shall be in addition to and not in substitution of any other restrictions or easements of record affecting the Premises.

F. The following signature pages are included in this Grant:

Grantor: Mark W. Sullivan and Karen D. Sullivan
Grantee: Essex County Greenbelt Association, Inc.
Approval of the Haverhill City Council
Approval of the Mayor of Haverhill
Approval of the Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts.

G. The following exhibits are attached and incorporated herein:

Exhibit A: Reduced Copy of Recorded Plan of Premises

WITNESS my hand and seal this ____ day of _____, 2023,

Mark W. Sullivan

Karen D. Sullivan

THE COMMONWEALTH OF MASSACHUSETTS

County, ss:

On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared Mark W. Sullivan, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

THE COMMONWEALTH OF MASSACHUSETTS

County, ss:

On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared Karen D. Sullivan, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

ACCEPTANCE OF GRANT

The foregoing Conservation Restriction from Mark W. Sullivan and Karen D. Sullivan was accepted by Essex County Greenbelt Association, Inc. this _____ day of _____, 2023.

By: _____
Katherine Bowditch
Its: President, duly authorized
By: _____
Timothy Fritzinger
Its: Treasurer, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

Essex County, ss:

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared Katherine Bowditch, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

THE COMMONWEALTH OF MASSACHUSETTS

Essex County, ss:

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared Timothy Fritzinger, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

APPROVAL OF THE HAVERHILL CITY COUNCIL

We, the undersigned, being a majority of the City Council of the City of Haverhill, hereby certify that at a meeting duly held on _____, 2023, the City Council voted to approve the foregoing Conservation Restriction from Mark W. Sullivan and Karen D. Sullivan to Essex County Greenbelt Association, Inc. in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

HAVERHILL CITY COUNCIL

Timothy J. Jordan, Council President

John A. Michitson, Council Vice President

Melinda Barrett

Joseph J. Bevilacqua

Thomas J. Sullivan

Melissa Lewandowski

Michael S. McGonagle

Catherine P. Rogers

THE COMMONWEALTH OF MASSACHUSETTS

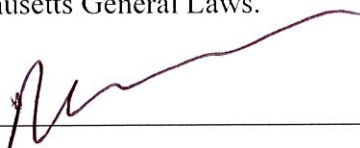
Essex County, ss:

On this ____ day of _____, 2023, before me, the undersigned notary public, personally appeared the members of the Haverhill City Council and proved to me through satisfactory evidence of identification which was _____ to be the persons whose names are signed on the proceeding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

APPROVAL OF MAYOR OF CITY OF HAVERHILL

The undersigned, Mayor of the City of Haverhill, Massachusetts, hereby approves in the public interest the foregoing Conservation Restriction from Mark W. Sullivan and Karen D. Sullivan to Essex County Greenbelt Association, Inc. pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

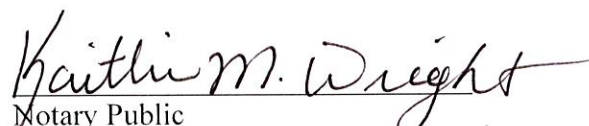


James J. Fiorentini, Mayor of the City of Haverhill, duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

Essex County, ss:

On this 28 day of July, 2023, before me, the undersigned notary public, personally appeared Mayor James J. Fiorentini, and proved to me through satisfactory evidence of identification which was personally known to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.


Notary Public
My Commission Expires: 10/27/2028

**APPROVAL OF SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS OF
THE COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby approves the foregoing Conservation Restriction from Mark W. Sullivan and Karen D. Sullivan to Essex County Greenbelt Association, Inc. in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: _____, 2023

Rebecca L. Tepper
Secretary of Energy and Environmental Affairs

THE COMMONWEALTH OF MASSACHUSETTS

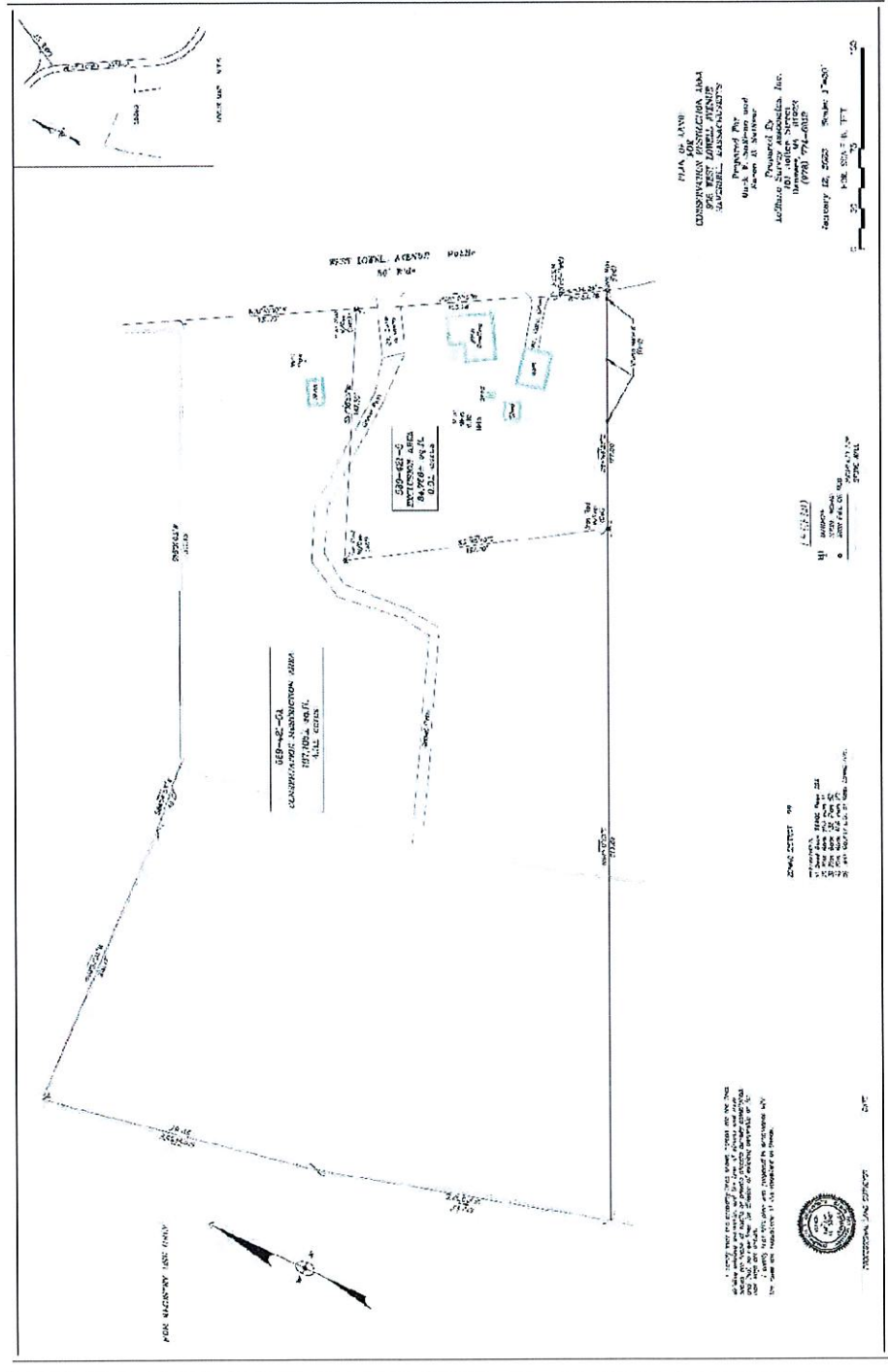
SUFFOLK, ss:

On this _____ day of _____, 2023, before me, the undersigned notary public, personally appeared Rebecca L. Tepper, and proved to me through satisfactory evidence of identification which was _____ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:

Reduced Copy Plan of Premises

For official full size plan see Southern Essex District Registry of Deeds Plan Book ____ Page ____



MUNICIPAL CERTIFICATION

(We) the undersigned Conservation Commission of Haverhill (the certifier) hereby certify that the proposed conservation restriction (CR) at 908 West Lowell Avenue, Haverhill, is in the public interest in that:

The Premises contributes to the protection of the scenic and natural character of Haverhill and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts the 25.7-acre Anton Conservation Restriction held by Essex County Greenbelt Association.

The Premises includes 3+/- acres of Prime Farmland and 4+/- acres of Prime 1 Forest Land as identified by the USDA Natural Resources Conservation Service. The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws.

The protection of the Premises will ensure that the open fields contained on the Premises will be permanently available for agriculture that is consistent with the purposes of the CR.

Protection of the Premises furthers the City of Haverhill's Open Space and Recreation Plan (2016-2023), specifically to "Improve the City's acquisition and protection of lands of open space and recreation interest" (Goal 6), and "Promote the preservation of the City's agricultural resources" (Goal 10).

Date: June 1, 2023

Signed:

Pursuant to the vote taken by the Conservation Commission on May 7, 2020, the following signatures are made in accordance with M.G.L. c.110G and pursuant to said Commission's electronic signature authorization vote recorded on May 21, 2020, with the Southern Essex District Registry of Deeds in Book 38538, Page 455.

/Frederick Clark/

Signature

/Thomas Wylie/

Signature

/Harmony Wilson/

Signature

/Jennifer Rubera/

Signature

Frederick Clark

Printed Name

Thomas Wylie

Printed Name

Harmony Wilson

Printed Name

Jennifer Rubera

Printed Name

June 28, 2023

HAU CITY CLERK JUL31'23 AM 9:20

City Council President Timothy J. Jordan and Members of the Haverhill City Council
City of Haverhill
4 Summer Street
Haverhill, MA 01830

Re: 908 West Lowell Avenue Conservation Restriction



Dear President Jordan and Members of the Haverhill City Council,

Essex County Greenbelt Association (Greenbelt) is honored to accept the grant of a Conservation Restriction (CR) over a \pm 4.3-acre portion of the property at 908 West Lowell Avenue from Mark and Karen Sullivan.

The CR will expand upon already conserved agricultural land at the adjacent Anton Farm CR property. The land covered by the CR includes soils classified as Prime Farmland and Prime Forest Land identified by the USDA Natural Resources Conservation Service.

The CR will permanently protect the land as open space available for agricultural uses while remaining in private ownership. Greenbelt will be responsible for monitoring and stewarding the terms of the CR in perpetuity.

Greenbelt is seeking approval of the CR in accordance with MGL Section 32 Chapter 184. The CR was supported by the Haverhill Conservation Commission at their June 1st meeting. The CR has also been reviewed and approved by the Executive Office of Energy and Environmental Affairs, who will be a signatory on the document.

We look forward to preserving the critical natural and agricultural resources provided by this land.

Thank you,

Maggie Brown
Land Conservation Project Manager
978-768-7241x25
maggie@ecga.org

Conserving local farmland, wildlife habitat, and scenic landscapes since 1961.

