

## OPEN SPACE AGREEMENT

**THIS AGREEMENT** made this \_\_\_ day of \_\_\_\_\_, 201\_\_ between Dan Morris and Karen Smith of Shelburne, Vermont (hereinafter referred to as "Grantors") and the TOWN OF CHARLOTTE, a municipal corporation situated in Chittenden County, Vermont (hereinafter referred to as "Municipality").

### W I T N E S S E T H:

**WHEREAS**, the Grantors are the owners of certain lands in the Municipality which it acquired by \_\_\_\_\_ Deed of \_\_\_\_\_ dated \_\_\_\_\_ and recorded in Volume \_\_\_\_\_ at Page \_\_\_\_\_ of the Land Records of the Municipality; and

**WHEREAS**, the Grantors are amending a previously approved two (2) lot residential subdivision which is shown and depicted on a plat entitled " \_\_\_\_\_ ", dated \_\_\_\_\_, prepared by Dan Morris, licensed Vermont architect; and recorded in Map Volume \_\_\_, Page \_\_\_ of said Land Records; and

**WHEREAS**, the Grantors have received final subdivision approval from the Municipality's Planning Commission for their project by written decision dated \_\_\_\_\_, 201\_\_; and

**WHEREAS**, the Grantors in presenting its proposal to the Planning Commission agreed that certain lands would remain in

their open state in consideration for the subdivision amendment approval; and

**WHEREAS**, the Grantors and the Municipality recognize the value of retaining the rural character of said lands and preserving them in their natural, scenic and open condition and in so doing furthering their aesthetic, agricultural and ecological value; and

**WHEREAS**, Title 10, Chapter 155, Vermont Statutes Annotated, permits Vermont municipalities to acquire interest in land in the nature of conservation and open space easements; and

**WHEREAS**, the Municipality desires to acquire a conservation and open space easement regarding certain lands of the Grantors in furtherance of the purposes enumerated in 10 V.S.A. '6301.

**NOW, THEREFORE**, the Grantors for and in consideration of the Planning Commission's approval of its subdivision and planned residential development, the facts above recited, and of the mutual covenants, terms, conditions and restrictions herein contained and as an absolute and unconditional transfer does hereby freely give, grant and convey unto the Municipality, its successors and assigns forever, a conservation and open space easement or restriction over the property described as "Open Space Zone A", "Open Space Zone B" and "Open Space Zone C" on the above described plat, to be made a part hereof, consisting of the following:

1. The right of public view of the property in its natural, scenic and open condition;

2. The right of the official representatives of the Town, in a reasonable manner and at reasonable times, to enter and inspect the property;

3. The right of the Municipality and Municipality alone, to enforce by injunction or proceedings at law or in equity, the covenants hereinafter set forth; and in furtherance of the foregoing affirmative rights, the Grantors, for themselves and their heirs, executors, administrators, successors and assigns, make the following covenants, which shall run with and bind the property in perpetuity:

(a) There shall be no construction or placing of any buildings, temporary or permanent on that property protected under this easement. Furthermore, no structures shall be constructed, except as follows:

Open Space Zone A:Construction of a residential septic system which may include associated septic structures.

Open Space Zone B:Construction of a dock in the proposed pond.

Open Space Zone B:Construction of future residential septic systems not planned at this time which may include associated septic structures.

Open Space Zone C: Construction of future residential septic systems not planned at this time which may include associated septic structures.

(b) There shall be no filling, mass excavating, mining or drilling, removal or topsoil, sand, gravel, rock, minerals or other materials, nor any building of roads, or change in the topography of the land of more than 12" in height, in any manner, except as follows:

Open Space Zone A: Constructing and maintaining the proposed residential driveway.

Open Space Zone A: Restoration of the existing farm pond if approved by the State of Vermont

Open Space Zone B: Construction of a new pond.

(c) The Grantors, their successors and assigns, shall have the right to use the conserved area for recreational, agricultural and farming purposes, including the cultivation of crops and animal husbandry, however, barns and fences will only be allowed with prior Selectboard approval.

(d) There shall be no dumping of ashes, trash, garbage or other unsightly or offensive material, and no changing of the topography through the placing of soil or other substance of materials such as landfill.

(e) There shall be no activities or uses on the property which shall be detrimental or could be detrimental to drainage, flood control, water conservation, fish and wildlife.

(f) Open Space Zone A contains significant forest growth and, except for the construction of the residential septic system, Open Space Zone A shall be maintained with the advisement of a Vermont Woodlands Accredited Consulting Forester employed by the owner.

The Grantors, for themselves and their successors and assigns, agree to pay any real estate taxes or other assessments levied by competent authorities on the property and to relieve the Municipality from responsibility for maintaining the property.

The restrictions agreed to in this document do not apply to any portions of the property not within Open Space Zones A, B or C.

The Grantors agree that the terms, conditions, restrictions, and purposes of this grant will be inserted by reference in any subsequent deed, or other legal instrument, by which the Grantors divest themselves of either fee simple title or possessory interest in the property or in any of the property forming a part of the development.

**TO HAVE AND TO HOLD** the said conservation easement and restriction unto the Municipality and its successors and assigns forever.

It is the intention of the parties hereto that the grant of easements and covenants herein is pursuant to the authority set forth in Title 10, Chapter 155, Vermont Statutes Annotated, as presently enacted and from time to time hereinafter amended, and that all of the provisions of said Chapter shall be binding upon the Grantors, their successors and assigns and upon the property, and shall inure to the benefit of the Municipality, its successors and assigns.

If any part of this agreement shall be decreed to be invalid by any court of competent jurisdiction, such decree shall not be interpreted so as to invalidate the remainder of this agreement.

Although this conservation restriction and easement will benefit the public as provided above, nothing herein shall be construed to convey a right to the public of access or use of the property, and the Grantors, for themselves and their successors and assigns, shall retain exclusive right to use the property for all purposes not inconsistent with this conservation restriction and easement.

**IN WITNESS WHEREOF**, the Grantors hereunto set their hands and seals this \_\_\_ day of \_\_\_\_\_, 201\_.

**IN THE PRESENCE OF:**

APPLICANT

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

TOWN OF CHARLOTTE

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

STATE OF VERMONT  
CHITTENDEN COUNTY, ss.

At \_\_\_\_\_, Vermont, this \_\_ day of \_\_\_\_\_, 201\_,  
\_\_\_\_\_ and \_\_\_\_\_,  
personally appeared, and they acknowledged this instrument, by  
them signed and sealed to be their free act and deed.

Before me, \_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

STATE OF VERMONT  
CHITTENDEN COUNTY, ss.

At \_\_\_\_\_, Vermont, this \_\_ day of \_\_\_\_\_, 201\_,  
\_\_\_\_\_,  
duly authorized agent of the Town of \_\_\_\_\_, personally  
appeared and he acknowledged this instrument by him signed and  
sealed, to be his free act and deed and the free act and deed of  
the Town of \_\_\_\_\_.

Before me, \_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_