

DECLARATION OF COMMON DRIVEWAY, EASEMENTS AND COVENANTS

This Declaration of Common Driveway Easement and Related Covenants (“Declaration”) is made as of this ____ day of March, 2023, by Willard House and Clock Museum, Inc., a Massachusetts charitable corporation with a principal place of business at 11 Willard Street, North Grafton, Massachusetts 01536, (hereinafter “Willard House”).

WHEREAS, Willard House is the current owner of certain premises situated in North Grafton, Massachusetts, known and numbered as 62 Wesson Street and shown as Lots 1, 2 and 3 as shown on a plan of land entitle “ANR Plan located at 62 Wesson Street, Grafton, MA owned by Willard House Clock Museum, Inc.” dated January 24, 2023, prepared by Land Planning, Inc., Civil Engineers, Land Surveyors, Environmental Consultants; 214 Worcester St., N. Grafton, MA 01536, said plan being recorded in the Worcester South Registry of Deeds (“Registry”) in Plan Book _____, Plan _____ (the “Plan”). For deed reference see deed recorded at the Worcester South Registry of Deeds in Book 9132, Page 116.

WHEREAS, Willard House intends to construct a common driveway to be shared by Lots 2 and 3 (“Premises”) as shown on said Plan; and

WHEREAS, it is the intent of Willard House, to establish a common scheme between said Premises for utility, driveway purposes, access, and maintenance purposes; and

WHEREAS Section 5.9 of the Grafton Zoning By-law requires a Special Permit from the Planning Department for construction of a common driveway (“Special Permit”); and

WHEREAS, the Town of Grafton Subdivision Rules and Regulations, Section 4.12.3, require a declaration of covenants, easements and restrictions for the use and maintenance of said common drives which shall regulate the common driveway being the subject hereof and shall be recorded in the Registry and shall constitute a perpetual covenant and restriction on land; and

WHEREAS the Willard House desires to comply with the provisions of the Grafton Zoning By-Law; and

WHEREAS Willard House desires to subject the Premises, to the requirements, easements, covenants, and agreements set forth herein.

NOW, THEREFORE, the undersigned, for itself and its successors and assigns to the Premises, does hereby declare, establish and impose the following covenants, conditions rights, easements and obligations on the Premises for the benefit of the owner(s) from time to time thereof and the Premises shall be hereafter held and conveyed subject to and with the benefit of the following covenants, obligations, rights and easements (“Common Driveway”):

COMMON DRIVEWAY EASEMENT AND RELATED COVENANTS

1. The easements shall be and herein are created and are located in the area as described as Common Driveway on the above-referenced Plan.
2. The owners, including but not limited to their successors and assigns, and respective tenant(s) and invitees (“Owners”) of Lot 2 and the Owners of Lot 3, shall each have a non-exclusive, perpetual right and easement, in common with each other, to use, from time to time, said common driveway being shown as “30’ wide easement for common driveway and utilities for the benefit of Lot 2 and 3, in common”, on said Plan”) up until that point which is shown on said Plan as “end of common drive” (hereinafter “Common Driveway” for all purposes for which common driveways are commonly used, including, without limitation, the right to pass and re-pass by motor vehicles and pedestrians, across said areas from Wesson Street, and to locate, repair, service, and maintain utility connections within and along said easement areas, including but not limited to water, sewer, telephone, electric and cable television, so long as such installations do not interfere with the use and enjoyment of the other owner, and with the obligations to use due diligence in conducting all necessary and permitted work, and to restore the easement area to substantially the same condition as it was prior to each said entry. There shall be no parking of vehicles or storage of personal property allowed in the Common Driveway.
3. In addition to the foregoing, the Owner(s) of Lot 3, shall have the perpetual easement to use the portion of the easement area located on Lot 2, from the point shown as “start of exclusive use” to Lot 3 (“Exclusive Use Area”).
4. The rights and easements granted herein, past the point at which the Common Driveway splits to provide separate access to each individual building and/or improvement upon the lots, which as pertaining to Lot 3 shall include the Exclusive Use Area, (each such area a “Private Driveway”) shall be exclusive to the Owner(s) of the respective lots and improvements being so accessed by such Private Driveway.
5. If and when the Common Driveway is constructed, it shall be constructed in accordance with the standards and specifications set forth in the Grafton Zoning By-Law and the Special Permit.
6. The Owners of the Premises shall have the joint and several responsibilities for all usual and extraordinary repair, replacement, and maintenance of the Common Driveway, prior to the split into the respective Private Driveways, and all related appurtenances and improvements thereto consistent with this Declaration. Such joint and several responsibilities for the repair, replacement and maintenance of the Common Driveway shall be such so as to provide continuous year-round access for: (i) vehicular traffic to said lots for the convenience of the Owners of the lots; (ii) all emergency, construction, maintenance and utility company vehicles; and (iii) for all vehicles commonly used by the owners of single family residential dwellings to provide goods and services to said lots. The common driveway shall extend from Wesson Street to the line described as “end common drive – start exclusive use” as shown on the Plan and shall exclude any driveway located on and exclusively serving any individual lot.

7. The costs of all such repairs, replacements, and maintenance to the Common Driveway, prior to the split to the respective Private Driveways, shall be divided among the Owners of the Premises in equal shares, one-half (1/2) of the cost of all said work being paid by the Owner of each lot.
8. Such repair, replacement and maintenance shall include without limitation:
 - a. **Grounds- Keeping.** Maintenance of the Common Driveway requires grounds-keeping. The Owners shall be responsible for maintaining a well-kept, aesthetically pleasing appearance that benefits the community's character.
 - b. **Common Driveway Repair.** The driveway bed, driveway bed and shoulders, as constructed, shall be maintained in good condition. The Common Driveway shall be resurfaced at least every ten (10) years. Notwithstanding the foregoing, if the driveway surface as constructed is comprised of asphalt, any such asphalt portion of the Common Driveway shall be sealed periodically to maximize its useful life, according to the following schedule:
 - i. The first seal coating will be applied within six (6) to eight (8) months of completing the Common Driveway;
 - ii. The second seal coating will be applied no later than twelve (12) months after the first sealing; and
 - iii. Subsequent seal coatings will be applied no less frequently than every twenty-four (24) months unless the Owners of Lots 2 and 3 agree to a different schedule.
 - c. **Snow Removal.** The plowing, removal and disposal of all snow accumulations of two (2) inches or more from the Common Driveway.
 - d. **Planting/Tree Maintenance.** The removal and disposal of fallen trees and limbs, the clearing and removal of all brush and foliage which would be unsightly and/or obstruct the access over and/or sight of vehicles using the Common Driveway, and the preservation of grass, plants, bushes and trees in accordance with best management practices consistent with such access and sight requirements.
 - e. **Trash and Debris Removal.** The removal and disposal of litter (e.g. cans, bottles, papers, etc.).
 - f. **Signage.** Installation and maintenance of permanent markers, where the Common Driveway enters Wesson Street, which marker shall identify the street number(s) only of the lots using such Common Driveway for vehicle access to and from Wesson Street.
9. All work performed hereunder shall be performed in a good, workman-like manner. No Owner shall make any renovations to the Common Driveway which will result in a change to the specifications of the Common Driveway as originally approved by the Town of Grafton, such as, without limitation, widening the Common Driveway, without first obtaining the necessary approvals and consent from the Town of Grafton.
10. If the Town of Grafton, its agents or employees, deem maintenance and repairs are necessary but are not being undertaken by the owner or owners of Lots 2 and 3, the Town may, in its discretion, perform such maintenance and repairs as required, and shall assess

the cost of same on said owners who shall equally share the burden of such expenses incurred by the Town.

ADMINISTRATIVE AND OTHER PROVISIONS

1. Only the Owner(s) of Lot 2 shall have the right to grant the owner of any other property the non-exclusive right to access and use the Common Driveway. The Owner(s) of Lot 2 shall not have the authority to grant the owner of any other property the non-exclusive right to access and use the Exclusive Use Area. No amendment of this Declaration shall be effective unless signed by the Owner(s) of Lot 3 and the Owner(s) of Lot 2 and until said amendment is duly recorded with the Registry. If any provision of this Declaration is to any extent held invalid, the remainder shall not be affected, and this Declaration shall remain valid to the fullest extent permitted by law.
2. The Owner(s) of the Premises, or any person or persons appointed by the Owner(s), shall arrange for: (i) the repair, replacement and/or maintenance, and other work as specified above, of the common portion of the Common Driveway, prior to the split into Private Driveways, including without limitation retaining agents, independent contractors, or others to perform such repair and maintenance; (ii) disbursing funds in payment for repair, replacement and/or maintenance services, and (iii) issuing bills or assessments to the Owners of the Premises for their respective share of such costs and expenses of such repair, replacement and/or maintenance. Any person authorized to make such arrangements shall be the agent or agents of the Owners of the Premises for such purposes.
3. The decision as to the need for the repair, replacement and/or maintenance of the common portion of the driveway, prior to the split into the respective Private Driveways, shall be made by majority vote of the Owner(s) of the Premises, each lot having one (1) vote. All Owner(s) shall be bound by such majority vote. In the event of a Owner deadlock, the parties shall meet and use commercially reasonable effort to resolves such dispute to the parties mutual satisfaction. In the event the Owner(s) are unable to do so within thirty (30) days, then the Owner(s) shall promptly participate in mediation before an impartial mediator mutually agreed to by the Owner(s). In the event no decision is reached following mediation, the Owner(s) shall promptly participate in binding arbitration before a single arbitrator. Any mediation or arbitration under this Paragraph, shall take place in Worcester County where the Premises are located. The expenses of any mediator or arbitrator as may be required hereunder shall be shared by the Owner(s) of the Premises equally. Any decision made pursuant to this Paragraph shall be binding on the Owner(s).
4. Each and every Owner of the Premises shall have the right to enforce the obligation of every other owner to repair, replace, and maintain the Common Driveway so as to provide safe and convenient access by fire, police, ambulance, rescue, moving, construction and maintenance vehicles, and any other rights and/or obligations contained herein, by any legal or equitable means. Such legal and equitable means shall include the provisions of Massachusetts General Laws, Chapter 84, §§ 12, 13 and 14. If any owner fails to pay an amount duly assessed for the cost of such repair, replacement and/or maintenance, such

owner shall be liable for interest at a rate of eighteen percent per annum (18%) on the amount unpaid and the reasonable costs of collection. In such an event, the Owner(s) who are required to initiate such enforcement and/or collection efforts resulting from non-payment by the other Owner shall be entitled to reasonable attorney's fees incurred in such enforcement or such collection.

5. A certificate signed and acknowledged by any Owner(s), other than the Owner requesting such certificate, confirming that any and all expenses of repair, replacement and/or maintenance have been paid by the requesting Owner or as to any fact affecting the terms of this Declaration shall be conclusive evidence of payment or of such fact. The obligation of a lot's share of the expenses of repair, replacement and maintenance shall constitute a lien on such lot.
6. The Owner(s) of Lot 2 and the Owner(s) of Lot 3 shall each have the right to install, repair, replace and maintain utilities within the Common Driveway for the benefit of each lot, including, but not limited to, water service, gas service and underground electric and/or telecommunication services provided that any repairs, replacement or maintenance of the Common Driveway, which are necessitated by the installation, repair, replacement and/or maintenance of said underground utilities for each lot, shall be paid for in this entirety by the Owner(s) of the lot that caused said work to be completed, and said Owner(s) shall cause the travelled surface of the Common Driveway to be restored, as nearly as practical, to the same condition that it was in prior to any such work undertaken pursuant to this Paragraph.

[Remainder of this page is intentionally left blank; signature page and acknowledgement to follow.]

IN WITNESS WHEREOF, the said Wayne Andrews, President and Charles Grichar, Treasurer of Willard House an Clock Museum, Inc. have caused this Declaration to be executed this ____ day March, 2023.

WILLARD HOUSE AND CLOCK MUSEUM, INC.

By: _____
Wayne Andrews, President

By: _____
Charles Grichar, Treasurer

COMMONWEALTH OF MASSACHUSETTS

County of Worcester, ss.

On this __ day of March, 2023, before me, the undersigned notary public, personally appeared WAYNE ANDREWS, President of WILLARD HOUSE AND CLOCK MUSEUM, INC., proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose as President of WILLARD HOUSE AND CLOCK MUSEUM, INC., a corporation, as the voluntary act of the corporation.

_____, Notary Public
My Commission Expires: _____

COMMONWEALTH OF MASSACHUSETTS

County of Worcester, ss.

On this __ day of March, 2023, before me, the undersigned notary public, personally appeared CHARLES GRICHAR, Treasurer of WILLARD HOUSE AND CLOCK MUSEUM, INC., proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose as Treasurer of WILLARD HOUSE AND CLOCK MUSEUM, INC., a corporation, as the voluntary act of the corporation.

_____, Notary Public
My Commission Expires: _____