

**DECLARATION
OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
CATALINA RIDGE**

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THIS DECLARATION, made as of the ____ day of _____, 2015, by ERH DEVELOPING, INC., a Minnesota Corporation, (hereinafter "Declarant").

RECITALS

Declarant is the fee owner of real property located in Olmsted County, Minnesota, as depicted on the plat of CATALINA RIDGE, which comprises twelve (9) residential lots within CATALINA RIDGE (hereinafter "Lots"):

Lots 1 through 5, Block 1, and Lots 1 through 20, Block 2, all in
CATALINA RIDGE, Olmsted County, Minnesota

The Declarant intends to develop the real property and desires to subject the real property as described above to the conditions, restrictions, covenants, and reservations hereinafter set forth, for the benefit of said real property as a whole for the benefit of each owner of any part thereof.

NOW THEREFORE, Declarant hereby imposes upon and subjects are of the real property described herein and such additions hereto as may hereinafter be made pursuant to Article III hereof, the following conditions, restrictions, covenants, and reservations hereinafter set forth, which shall insure to the benefit of said real property and which shall apply to the benefit of and be binding upon the present and future owners of said real property.

ARTICLE I

DEFINITIONS

The following words, when used in this Declaration, or any supplemental Declaration shall have the following meanings:

- A. "Architectural Review Committee" means the committee established to review the designs of all residences, out buildings, and garages in the interest of promoting attractive design consistent with the Architectural Guidelines adopted for this property.

- B. "Architectural Guidelines" means the architectural approval process and architectural, site, and landscaping standards that have been adopted by ERH DEVELOPING, INC. as set forth in Article XI.
- C. "Development Agreement" means that certain Development Agreement, effective on even date herewith, by and between Declarant and the City of Rochester, in Olmsted County, located in Minnesota.
- D. "Dwelling" means a part of a building consisting of one or more floors, designed and intended for occupancy as a single family residence, and located within the boundaries of a Lot. The Dwelling includes any garage attached thereto or otherwise within the boundaries of the Lot in which the Dwelling is located.
- E. "First Mortgage" means any person, corporation or other entity named as mortgagee in any mortgage deed granting a first lien upon the fee simple title to any Lot.
- F. "Front Lot Line" shall refer to the lot line abutting the public or private roadway. Side yard and rear yard designations shall be made with reference to the Front Lot Line.
- G. "Governing Documents" means this Declaration, Articles of Incorporation and Bylaws of the Association, and Supplementary Declaration, as amended from time to time, all of which shall govern the use and operation of the Property.
- H. "Lot" means any platted lot suitable for residential construction in the Property, including any lot resulting from the platting of any additional property subject to this Declaration in accordance with the provisions of Article III, with the exceptions of the Common Properties.
- I. "CATALINA RIDGE" means the Olmsted County, Minnesota real estate as depicted in the official plat of CATALINA RIDGE to be recorded with the Property Records Department of Olmsted County, Minnesota.
- J. "Owner" means each person, partnership, corporation, or other entity who or which is either: the holder of a fee simple absolute interest, a contract for deed vendee or a life tenant with respect to any Lot or Lots.
- K. "Plat" means that certain CATALINA RIDGE Plat approved by the City of Rochester, in Olmsted County, Minnesota, which Plat shall be recorded with the Property Records Department of Olmsted County, Minnesota.
- L. "Property" means all the real property submitted to this Declaration, including the improvements now or in the future located thereon. The

Property as of the date of this Declaration is described in the recital on Page 1 of the Declaration and on the Plat Exhibit attached hereto and made subject to this Declaration in accordance with the provisions of Article III hereof.

ARTICLE II

GENERAL PURPOSE

The general purpose of this Declaration is to help ensure that CATALINA RIDGE will become and remain an attractive residential area and toward that end to preserve and maintain the natural beauty and environment of the area; to ensure the best use and the most appropriate development of each building site to promote good site interrelationship; to guard against the erection of poorly designed or proportioned structures; to ensure the highest and best residential development of said property by harmonious use of material and color schemes; to encourage the erection of attractive homes with appropriate locations of building sites; to serve and maintain proposed setbacks from roadways and lot lines consistent with the site topography; and to ensure adequate space between structures.

ARTICLE III

LAND USE, DESCRIPTION OF LOTS, AND CONSTRUCTION

- A. Architectural Review Committee and Control. In the interest of promoting attractive design, it is preferred that an architect designs any residence or garage. No residence or other structures shall be erected, maintained or the exterior altered until the building plans, specifications, color, decoration, materials for construction, site grading and erosion control plans, lot clearing, landscaping and plat plans of the lot with the proposed residence and appurtenant structures shown thereon and grade thereof shall first have been presented to the Architectural Review Committee and approved in writing, with respect to quality, materials, harmony of external design and colors with existing and planned structures, and as to location with respect to setbacks, finish grade elevations, driveway, and landscaping.
- B. Lots. In the initial plat of CATALINA RIDGE, there will be twenty-five (25) lots, all of which are restricted exclusively to residential use. Each lot constitutes a separate parcel of real estate. Lots are further identified on the plat, which is incorporated herein by reference and legally identified on page one herein. Such approval shall not be arbitrarily withheld or delayed.
- C. Land Use and Building Type. No lot shall be used except for single-family residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached, single-family

dwelling, not exceeding three stories plus basement in height, without prior approval of the Architectural Review Committee, and a private garage for not more than one thousand square feet, and other out buildings incidental to residential use of the premises.

D. Residence Minimum Size.

Rambler: Must have a basement, no "slab on grade" permitted. Must be 1,200 square feet per level.

Two Story: Must have 1,100 square feet on main level, 750 on Second Level, basement at 1,100 square feet minimum and a total finished area of at least 1,850 square feet.

Split entry homes are permitted; "tuck-unders" are permitted. Multi-Level or custom designs are subject to approval by the Committee.

E. Setbacks.

1. Front and Side Yard Regulations. No building or part thereof shall be erected on any lot within twenty (20) feet of the front lot line, or closer than twenty (20) feet on each side, or subject to such setbacks required by the City of Rochester.

2. Rear Yard Regulations. No building or any part thereof shall be erected within fifty (50) feet of the rear lot line of any lot.

F. Grading, Erosion Control, and Runoff Plans. All improvements must be consistent with the grading, erosion control, and runoff plan, as approved by Haverhill Township, Township Engineer, and Olmsted County.

G. Use and Enjoyment Easements. Each lot shall be the beneficiary of appurtenant easements for use and enjoyment in and to the future common property, subject to any restrictions authorized by this Declaration on other Declarations referred to herein.

H. Recorded Easements. The Property shall be subject to such other easements as may be lawfully recorded against it or as otherwise shown on the plat.

I. Utility Easements. The Property shall be subject to non-exclusive, appurtenant easements for all utilities, and similar services, which exist from time to time, as constructed or referred to in the plat, or as otherwise described in any other duly recorded instrument. Each lot and the rights of the Owners, shall be subject to a non-exclusive easement in favor of the other lots for all such services, including without limitation, water lines servicing the other lots. Each lot shall also be subject to a non-exclusive

easement in favor of the Association and all utility companies providing service to the lots for the installation and maintenance of utility metering devices.

- J. Drainage Easement. Drainage easements shall be depicted on the plat of CATALINA RIDGE. These easements shall provide Haverhill Township officials, any licensed and certified agency operating utilities for CATALINA RIDGE or other servicing utility companies the right of ingress and egress for the operation, maintenance, and improvement of drainageways or waterways, both surface and subsurface, running over, across, and under said easement.
- K. Completion of Construction. The exterior envelope of any structure under construction by any Owner of any lot shall be 100 percent complete within twelve months from the start of construction. This shall include all sod and seeding, brickwork, driveway, staining, painting, and landscaping. The Committee reserves the right to complete all exterior of any initiated dwelling construction after expiration of the twelve months from start of construction and place a lien against said property for the resultant and incurred fees and expenses.
- L. Occupancy. No residence may be occupied until the exterior of the residence is substantially finished and all construction debris is removed.

ARTICLE IV.

ARCHITECTURAL REVIEW COMMITTEE

- A. Purpose and Committee Make-up. In order to ensure quality and protect the desirability of CATALINA RIDGE and of the surrounding residential neighborhood, an Architectural Review Committee (the "ARC") is hereby established. The ARC shall consist ERH DEVELOPING, INC. and such other persons, if any, appointed by ERH DEVELOPING, INC..
- B. Duties. Prior to the sale of any Lot, the ARC shall provide the prospective purchaser with architectural guidelines relating to any structure constructed on the Lot and landscaping. Prior to the construction of any improvements upon any Lot, or upon an exterior to be altered or maintained, the Lot Owner shall submit the building plans, specifications, color declaration, materials for construction, grading and erosion control plans, land clearing, landscaping and plot plans to the ARC for consideration and approval in accordance with the process established in the Architectural Guidelines.
- C. Procedure. Plans to be submitted to the ARC pursuant to Paragraph B herein must adhere to the standards contained in the Architectural

Guidelines as determined from time to time by ERH DEVELOPING, INC., including scale drawings and written specifications showing: floor plans and improved areas; dimensions; elevations; grades; any fills; exterior material types; window locations; dimensions and types; exterior finishes; and exterior colors (including siding and shingles).

All Property Owners shall be provided a copy of the guidelines and lot survey. The Architectural Guidelines shall control in the event any discrepancy or inconsistency exists between the architectural standards set forth herein and the Architectural Guidelines.

The ARC may reject any site plan or proposed building which, in its sole discretion, would detract from the character, aesthetics, and quality of the entire development, notwithstanding that such structure might otherwise be in conformity with the building and zoning codes and ordinances of Haverhill Township.

In the event the ARC fails to approve or disapprove within thirty (30) calendar days after full submission to it of such plans and specifications, then the plans shall be deemed to have been approved by the ARC.

Prior to the commencement of any construction, the Lot Owner shall provide to the ARC, copies of the documents filed with the Haverhill Township to obtain a building permit. In the event there is a significant discrepancy between the plans previously approved by the ARC and those approved by Haverhill Township, construction shall not be commenced if the ARC notifies the Owner of such discrepancies within seven (7) days of receipt of such documents by the ARC.

ARTICLE V.

ARCHITECTURAL GUIDELINES

The ARC shall consider, among the Architectural Guidelines, the following criteria in determining whether to approve or disapprove plans:

- A. **Objectives.** The goals and objectives as set forth in Article X.
- B. **Land Use and Building Type.** No Lot shall be used except for single-family residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached, single-family dwelling, not exceeding three stories plus basement in height, without prior approval of the Architectural Review Committee, and a private garage for not more than one thousand square feet, and other out buildings incidental to residential use of the premises.

- C. Dwelling Quality. The design, layout and exterior appearance of each home shall be such that, in the opinion of the ARC at the time of approving the building plans, the home will be of high quality and will not have a substantially adverse effect upon the property values in CATALINA RIDGE.
- D. Pools. No above or below grade swimming pools may be constructed, installed or assembled on the Lot.
- E. Materials and Colors. Exterior structural materials, including roofs, must be natural color or painted, stained, or otherwise finished with ARC approved colors and materials. Trim colors must complement, blend with, or accent the main house color. The ARC will keep samples of pre-approved colors on file.
- F. Landscaping. Lawns must be sodded, no seeding is permitted.
- G. Setbacks and Lot Boundaries. Setback and lot boundary requirements are set forth herein at Article III.
- H. Occupancy. No residence may be occupied until the exterior of the residence is substantially finished and all construction debris is removed.
- J. Grading and Erosion Runoff Control Plans. All improvements must be consistent with a Grading Erosion Control and Runoff Plan which is approved by The City of Rochester, Planning and Zoning, and Olmsted County.
- K. Signs. No sign of any kind shall be displayed to the public view on any Lot, except a sign of up to five (5) square feet or one sign of not more than seven (7). Declarant may erect and maintain upon the properties such signs as it deems appropriate to advertise the Properties until the Declarant conveys the last Lot. All signs shall be located at least fifteen feet back from the lot or road right of way line.
- L. Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, and other waste shall not be kept on a Lot except in sanitary containers. All other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition, and suitably screened from roadways and adjacent Lots except as required by regulations or general procedures governing garbage and trash pickups by removal services.
- M. Temporary Structures. No structure of a temporary character (e.g. trailer, basement, tent, shack, garage, barn or outbuilding) shall be used on any Lot at any time as a residence, either temporarily or permanently.

- N. Parking. All trucks or trailers including, but not limited to, house trailers, camp trailers, snowmobile trailers, cargo trailers, boat trailers, motorcycle trailers, vans, motorhomes, snowmobiles, boats, motorcycles, jet skies, all terrain vehicles and other similar devices must be parked and stored in garages.
- O. Animals and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot except dogs, cats or other household pets may be kept, provided they are not kept, bred, or maintained for any commercial purposes and the animals are controlled to remain on the Owner's Lot and shall not be a nuisance with respect to noise and disruption of other Lot Owners so that there is no violation of any Township or County Ordinance.
- P. Subdivision of Lot. Lot Owner shall not be allowed to subdivide, either legally or physically, all or part of their Lot.
- Q. Mailboxes and Address Posts. Each lot owner shall install or have installed a combined mailbox/lot address post or (where due to postal requirements) separate mailbox post and lot address post. The design and placement of the mailbox and/or address post must be approved in writing by the ARC prior to placement.
- R. Lights. Excessively brilliant yard lights (lights exceeding 300 watts) or lights on poles higher than thirty (30) feet above the ground shall not be allowed without written approval of the ARC nor may any exterior light be installed that creates a nuisance.
- S. Wetlands. Wetlands are present on Block 1 of Catalina Ridge. Owners shall not build upon, travel over or otherwise disturb such wetlands.

ARTICLE VI.

CONSTRUCTION OF DWELLING

- A. Access During Construction. During construction of improvements upon a Lot, the ARC shall have the right of reasonable access to insure compliance with the approved site plan, building plans, specifications, color, materials for construction, grading and erosion control plans, land clearing, landscaping plans and plot plan of the Lot showing the proposed residence and appurtenant buildings, setbacks, finished grade evaluations, driveways, culverts, plantings and landscaping. Should the ARC determine that the Owner has not complied with the provisions of its written submissions, the ARC reserves the right to complete construction according to the approved submissions and place a lien against the Lot for the cost of completion and

the cost of enforcing this Declaration.

- B. Temporary Structures. During construction of the residence, the contractor may have no more than two temporary structures containing no more than five hundred (500) square feet of total floor area and these structures must be immediately adjacent to the residence being constructed. These temporary structures may exist for a maximum and total period not to exceed one year (365 days) and must be removed upon completion of the dwelling or one year (365 days), whichever period is shorter.
- C. Dumpster. During construction, a dumpster shall be kept on the Lot for construction waste. The Lot shall be inspected and cleaned daily by the Owner or his agents.
- D. Road Repair. The Owner shall repair or replace any road surface damaged during construction of the residence or during site improvements made to the Lot.
- E. Completion of Construction. The exterior envelope of any structure under construction by a Lot Owner shall be one hundred percent (100%) complete within twenty (24) months from the start of construction. This will include all sod, brickwork, staining, painting and landscaping. The ARC reserves the right to complete the exterior of any improvement after the expiration of twenty-four (24) months from the start of construction and place a lien against the Lot for the resultant fees and expenses incurred.

ARTICLE VII.

OPTIONS TO REPURCHASE

- A. Construction Before Approval. If any Lot Owner commences construction prior to the ARC approval of the plans and specifications, the Declarant shall have, at its sole discretion, the exclusive option to repurchase the Lot for the original purchase price. Should Declarant elect to exercise its option to repurchase, the Lot Owner shall deliver to Declarant a warranty deed in exchange for payment of the original purchase price. Should Declarant elect to exercise this option, it must place a Lis Pendens of record against the Lot within sixty (60) days of the date Owner commenced construction without ARC approval.
- B. Selling Before Construction. If the Lot Owner decides to sell a Lot prior to the construction of a single family residence, said Owner must first offer the Lot to the Declarant for repurchase of the Lot at the original purchase price plus seven percent (7%) simple interest from the date of closing of the original purchase to the date of repurchase by the Declarant. This right of

repurchase by the Declarant shall be at its sole and exclusive option and must be exercised by the Declarant within sixty (60) days from the date said Declarant receives written notice from the Lot Owner of his intent to sell the Lot.

- C. Failure To Build Within 18 Months. If the Lot Owner does not commence construction within eighteen (18) months from the date of the final closing of purchasing the Lot and Declarant shall have the exclusive and absolute right at its option to repurchase the Lot upon which construction has not been commenced for the original purchase price plus seven percent (7%) simple interest from the date of closing of the original purchase to the date of repurchase by the Declarant. This right of repurchase by Declarant shall be at its sole and exclusive option and must be exercised by Declarant within sixty (60) days from the date the Declarant receives written notice from the Lot Owner of his intent to sell the Lot.

ARTICLE VIII.

GENERAL PROVISIONS

- A. Nuisances. No noxious or offensive activities shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
- B. Prohibition of Damage And Certain Activities. Nothing shall be done or kept on any Lot or any part thereof (i) to increase the rate of insurance on any other Lot over what the Owner of such other Lot would pay, absent such activity, without the prior written consent of the Association, or (ii) which would be in violation of any statute, rule ordinance, regulation, permit or other validly imposed requirement of any governmental body. No damage to, or waste of, the Properties or the buildings situated thereon, shall be committed by any Owner or any invitee of any Owner and each Owner agrees to indemnify and hold harmless the Association and the other Owners from and against all loss resulting from any such damage or waste caused by his or his invitees.
- C. Notices. Any notice required to be sent to any Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage paid to the last known address of the person who appears as an Owner on the records of the Association at the time of such filing.
- D. Enforcement. In the event any Owner fails to comply with the provisions of this Declaration, or the Bylaws or Articles of Incorporation of the Association, or with any lawful decision of the Association made pursuant

thereto, such failure will give rise to a cause of action on the part of the Association, or any aggrieved Owner, for the recovery of money damages or for injunctive relief, or both. Owners shall have a similar right of action against the Association. Enforcement of these covenants and restrictions may be by any proceeding at law or in equity.

- E. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.
- F. Duration of Covenants, Restrictions and Easements. The covenants, restrictions and easements of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns. The easements set forth herein shall be perpetual. The covenants and restrictions herein set forth shall have a term of twenty (20) years from the date this Declaration is recorded with the Olmsted County, Minnesota Property Record's office, after which time, said covenants and restrictions shall be automatically renewed for successive periods of ten (10) years unless a majority of Owners and a majority of the mortgagee of record elect to terminate this Declaration at the end of the initial term or any extended term.
- G. Invalidation of Covenants. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.
- H. Amendments. This Declaration may be amended by an instrument signed by Owners holding fifty-one (51%) percent of the votes of the lots situated in Catalina Ridge. No amendments shall be effected until recorded in the Olmsted County Minnesota Property Records Office.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed this day and year first above written.

ERH DEVELOPING, INC.

TOBIN LAWVER, Vice President

JENNIFER LAWVER, President

STATE OF MINNESOTA)
)ss.
COUNTY OF OLMSTED)

The foregoing instrument was acknowledged before me this ____ day of December, 2017, by TOBIN LAWVER and JENNIFER LAWVER the Vice President and President of ERH DEVELOPING, a Minnesota Domestic Corporation under the laws of Minnesota, on behalf of the company.

Notary Public