

**PEABODY 1ST SUBDIVISION DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS,
RESERVATIONS, EASEMENTS, LIENS AND CHARGES**

THIS DECLARATION, made May 1st, 2006, by Peabody, LLC., hereinafter referred to as “Developer”, who desires to provide for the preservation of the values and amenities of the property described in Article II of this Declaration, hereinafter called the “Property”. To this end the Property is subject to the covenants, conditions, restrictions, reservations, easements, liens and charges set forth in this Declaration, each and all of which is and are for the benefit of the Property and each Owner. These covenants, conditions, restrictions, reservations, easements, liens and charges shall run with the land and shall be binding on all parties having or acquiring any right, title or interest in the properties herein described or any part thereof, and shall inure to the benefit of each Owner thereof.

NOW, THEREFORE, Developer declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, reservations, easements, liens and charges (sometimes referred to as “covenants and restrictions”) set forth in this Declaration.

ARTICLE I.

DEFINITIONS

The following words, when used in this Declaration (unless the context shall prohibit), shall have the following meanings:

1. “Lot” shall mean and refer to any plot of land shown upon any recorded Plat of the Property. If a Lot as shown on the Plat or a portion thereof, is added to an adjacent Lot, then the same shall be considered as one Lot for purposes of this Declaration.
2. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.
3. “Building Plot” shall mean and consist of one or more Lots or one Lot and a portion or portions of adjacent Lots, which have the same Owner.
4. “Family” shall mean one or more persons living in a residential building as a single housekeeping unit and shall exclude a group or groups of persons where three (3) or more persons thereof are not related by blood, adoption, or marriage.

5. "Developer" shall mean and refer to Peabody, LLC., its successors and assigns, if any successors or assigned shall acquire a majority of the undeveloped Lots for the purpose of development.
6. "Property" shall mean that real property described more specifically in Article II of this Declaration.
7. "Declaration" shall mean the covenants, conditions, restrictions, reservations, easements, liens and charges set forth in this Agreements, as made from time to time be amended.

ARTICLE II.

PROPERTY SUBJECT TO THIS DECLARATION

The Property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is described as follows:

PEABODY'S 1ST Subdivision, the City of East Grand Forks, Polk County, Minnesota.

all of which real property shall hereinafter be called the "Property".

ARTICLE III.

ARCHITECTURAL CONTROL

1. Peabody Architectural Review Committee. There is hereby established the Peabody Architectural Review Committee ("Review Committee") for the Property which shall be comprised of the Developer until the time that residences have been constructed and completed on all properties, or until the time that the Developer decides to divest itself of responsibility for Architectural Control. When such control is relinquished, the responsibility shall be vested in a committee comprised of three Owners, who shall be elected by all Lot Owners in the subdivision. The elected committee shall, at that time, adopt a meeting schedule and rules of operation. It shall be conclusively presumed that there have been no complete construction upon all properties or that the Developer has not divested itself of responsibility for Architectural Control unless there is a sworn affidavit of record stating that one or the other of said factual circumstances exists.

2. Procedure for Submission of Plans and Specifications. Two (2) copies of Plans (for which receipt must be acknowledged in writing) will be submitted to the Review Committee. Approval or disapproval of those plans will be made in writing within ten (10) days after the receipt of those plans. In the event the Review Committee fails to approve or disapprove of the plans and related documents within this ten (10) period, approval will not be required and the related covenants shall be deemed to have been fully met. Approval shall not be arbitrarily withheld or delayed, it being the intention of the Review Committee to grant or withhold approval for the purpose of establishing a quality, restricted residential district, free from objectionable or value-destroying features and in conformity with the governing zoning codes, building codes and other applicable regulations then in force.

3. Architectural Control. No building, fence, wall, landscape feature, pool, play structure, driveway, sidewalk, or any other structure shall be commenced, erected or maintained on the Lots, nor shall any exterior addition to or change or alteration thereto be made to any buildings on the Lots until the plans and specification for same have been submitted to and approved by the Review Committee or its appointed architect from time to time.
 - A. Plans submitted for approval shall include the following:
 - i. One set of house plans, one site plan and a completed application form.
 - ii. The house plan should indicate construction materials and specifications, roofing material, exterior finishes and colors.
 - iii. The site plan should indicate the basement outline with projections shown as a dotted line. The garage “footprint” and exterior steps or decks should be indicated. The main floor proposed grade, and the basement floor grade shall be clearly shown. All proposed grades shall coincide with the elevations established by C.P.S. Ltd. The site plan should indicated the finished landscape grade at each corner of the building as well as those adjacent to any unusual indentations within an elevation. The site plan should indicate sidewalk, walkway, and driveway locations and sizes.

 - B. Accessory structures such as pools, pool houses, gazebos, utility buildings, storage buildings, additional garages, decks and play structures shall be indicated on the site plan.

- C. Any and all solar heating devices or satellite dished, TV and radio antennae must be approved by Review Committee or its architect.

- D. Each Lot will be restricted to construction of one single family detached residence with either a two or three car attached garage. Detached garages may be approved, provided they constructed as part of the design style and are constructed with the same exterior materials as the house. No lean-to, car-port, vehicle storage building detached from the residence will be permitted, without the written approval of the Review Committee.

- E. The exterior minimum square footage requirements apply. Square foot calculations will not include basements, open porches and decks or garages.
 - i. 1400 square feet for a standard one story (bungalow).
 - ii. 1800 square feet for a standard two story. Note: All two story residences should have a minimum ground floor area equal to 50% of its total square footage.
 - iii. 1800 square feet for a one and one-half story. Note: The minimum ground floor “footprint” must not be less than 1240 square feet.
 - iv. 960 square feet for an accessory structure will be maximum with the same exterior materials used in the house.

- F. A reduction of the square footage with respect to any of the Lots may granted by the Review Committee. Any reduction shall be evidenced by a written certificate of variance issued by the Review Committee.

- G. No residence shall exceed two stories in height when viewed from the street.

ARTICLE IV.

RESTRICTIONS

The property shall be subject to the following restrictions:

1. Land Use and Building Type. All lots are zoned residential and shall be used for single family purposes only. No improvements or structures whatsoever, other than a private dwelling house, swimming pool, Review Committee approved outbuildings, garages and fences (subject to limitations hereinafter set forth) may be erected, placed or maintained on any Lot on the Property.
2. Building Location. No building shall be erected on any Lot unless side Lot clearances and front line set backs are in compliance with The City of East Grand Forks zoning ordinances for residential zoning districts unless variances are approved by Review Committee and the City of East Grand Forks, however, in no event shall any building or structure be erected within 30 feet of front Lot line. Eaves and steps shall also be constructed in a such a way so as to comply with such zoning ordinances and restrictions, provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.
3. Building Materials. No structure can be moved upon said premises regardless of whether or not it is made of new materials or not. No pre-fab type of structures, including mobile homes or buildings assembled on any tract of land except the lot in questions may be constructed on said premises. The owners of said premises may have rafters, floor joists and walls pre-fabed or pre-constructed provided that pre-fabrications is completed by a builder, contractor or factory which is within three miles of the property in question. Only new material can be used for the construction of any building on said premises. No home or garage shall be constructed of metal or pre-cast concrete or masonry panels in the assembly of any building on said premises. Metal siding may be used on said building provided it is the type of metal siding that is primarily used on better quality residences. No homes or any buildings may be constructed entirely of concrete blocks even though said blocks may have architectural characteristics contained in them. No earth homes or log homes may be constructed on any of said lots.

4. Lots Drainage Control. All Lots shall be graded to the finished design grades as approved by The Review Committee. Positive drainage is required and made to divert water away from the residence and to prevent standing water and soil saturation which may detrimental to structures and enjoyment or use of the property. All below grade drainage shall be kept underground and drain to the street.
5. Fencing. All fencing provided by the builder or owner, or anyone other than the Review Committee shall require the approval of the Review Committee prior to installation.
6. Completion/Landscaping. All exterior construction which shall included all concrete shall be completed in eleven months from the date of the issuance of the building permit by the City of East Grand Forks. The front and side Lots of each property shall be sodded or seeded prior to the end of the first summer construction season that the home is completed. If a property is completed in the winter, it shall be sodded or seeded prior to the end of the following summer. If a property is completed in the same year, the rear Lot shall be seeded or sodded within one year of occupancy of the completed residence.
7. Diseases, Insects, and Rodents. No Owner shall permit any thing or condition to exist upon any Lot which shall induce, breed, or harbor infectious plant diseases, noxious insects, or rodents.
8. Antennas. To the extent permitted by applicable law, the installation of antennas, satellite dishes or other devices for the transmission or reception of television or radio signals or any other form or electromagnetic radiation shall be subject to the prior approval of the Review Committee. Therefore, no antennae, satellite or microwave dish or other device for transmission or reception of television or radio signals shall be constructed, installed, erected, used or maintained on any Lot without the prior approval of the Review Committee unless applicable law prohibits the Review Committee from requiring such approval. Any such antennas must be still installed in accordance with the guidelines set forth by the Review Committee.
9. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot except in covered containers of a type, size and style which are approved by the Review Committee. In no event shall such containers be maintained so as to be Visible From neighboring Property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash, or garbage shall be removed from Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot. All garbage or trash shall be collected by a garbage or trash collection service as designated by the Developer or the Review Committee.

10. Rooftop HVAC Equipment Prohibited. No heating, ventilating, air conditioning or evaporative cooling units or equipment related thereto may be mounted, installed or maintained on the roof of any Residential Unit, garage, or other building so as to be Visible from Neighboring Property.

11. Basketball Goals and Backboards. No basketball goal or backboard shall be attached to a Residential Unit or other building. Basketball goals and backboards attached to a freestanding pole may be installed on a Lot provided the location, design and appearance of the basketball goal and backboard is approved by the Review Committee.

12. Animals. Other than household pets kept for non-commercial uses, no animals, livestock, poultry or insects of any kind shall be raised, bred or maintained on any of the Lots, Pets will be restricted to owners Lot, must not be a nuisance and will not be allowed to stray to adjacent property.

13. Mailboxes. Location of mailboxes will be consistent with the overall development plan and subject to approval by the Review Committee. No delivery boxes other than mailboxes for U.S. Mail will be permitted without the specific approval of the Review Committee.

14. Clotheslines. Clotheslines will be permitted as long as placement and design are approved by the Review Committee.

15. Vehicle Parking Storage. No commercial vehicles, motor homes, travel trailers, or construction equipment shall be permitted on any Lot in the subdivision. Motor homes, travel trailers and like vehicles shall be temporarily permitted on the Lots for the purpose of loading and unloading such vehicles or for the temporary visits by visitors to the Lots.

All motor vehicles kept on or about a property shall be currently licensed and shall be maintained in an operable condition at all times, temporary mechanical difficulties and breakdowns excepted.

16. Signs. No billboards or advertising signs of any kind or character shall be erected, placed, permitted or maintained on any Lot except as herein expressly permitted. A name and address sign used solely for the purpose of identification of the dwelling house occupants may be placed on the property by its occupants provided the sign is not more than two feet square maximum and the design of the sign is approved by the Review Committee prior to installation. The provisions of the paragraph may be waived by the Review Committee only when in its discretion the same is necessary to promote the sale of the property in the area of promotion of the premises. The Review Committee may erect, place and maintain such sign structure or structures as it deems necessary for the operation or identification of the subdivision.
17. Nuisance. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Such restrictions shall include, but not be limited to using the Lot as a dumping ground for rubbish, garbage, trash, or other waste materials, the placing thereon of unsightly piles of dirt, lumber or other material except during construction, and then only during the course of construction. Such restrictions shall also include allowing noxious weeds to occur on the Lot either during or after the period of construction of the home.
18. Dirt Removal. No topsoil or excavation material may be removed from the Development Property. When there occurs an excess of soil or excavation material as a result of basement excavation or Lot grading, permission to remove that material must be obtained from the Review Committee, or its engineer. Otherwise, the Review Committee will direct as to where the excess excavation, or soil, if any, is to be disposed of.
19. Appearance During Construction. All Lots are to be kept clean during construction. All garbage is to be stored out of sight. No garbage/trash burning will be permitted.
20. Propane Tanks. No combustible liquid or gas tanks, exposed to view from the public street, shall be allowed on the Lots.

21. Temporary Residence. No trailer, basement, tent shack, garage, barn or other outbuilding erected on the tract shall at any time be used as a residence, nor shall any residence of a temporary character be permitted, except a travel trailer or motor home may be used as temporary home during construction of a permanent home for not over 3 months.

22. Easements. The easements for the installation and maintenance of utility facilities are shown on the registered plat of the development. Within the area of the easements no structures, plantings, fencing or other materials shall be placed, erected, or permitted to remain which may damage or interfere with the installation and maintenance of utilities. The easement areas of each Lot and all improvements on it shall be maintained continuously by the Owner except for the improvements for which the public authority or utility company is responsible.

All claims for damages, if any, arising out of the construction, maintenance and repair of the utility or drainage facility or on account of temporary or other inconvenience caused thereby against the Developer, the utility or the public authority or any of its agents or servants are waived by the Owners.

23. Power and Telephone Lines. For all the Lots, temporary overhead, distribution and service lines are permitted until permanent underground facilities are installed. Otherwise overhead lines be prohibited except during emergencies and repairs.

24. Mining. No derrick or other structure designed for use in exploring for oil or natural gas shall be erected, placed, or permitted upon any part of the Lots nor shall any oil, natural gas, petroleum, asphalt, hydrocarbon products or minerals of any kind be produced or extracted anywhere in the Lots. No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted on any Lot or any part of the properties nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on part of the Lots.

25. Basements. All homes constructed on said premises must have basements constructed under them. No basement shall be constructed for temporary residential purposes and no basement structure shall be used for residential purposes unless and the until the entire primary structure has been erected and complies with the building code of the City of East Grand Forks.

26. Recreational Equipment. No recreational equipment boats, boat trailers, campers, snowmobiles, snowmobile trailers, fish houses, shall be stored on said premises unless they are stored in an enclosed garage.
27. Structural Changes. No house or structure shall be moved onto any of the Lots, and no structure once erected shall at any time be altered or changed so as to permit its use to be in violation of these restrictions and conditions.
28. Mortgages. The breach of any of the foregoing covenants, conditions, reservations or restrictions shall not defeat or render invalid any lien, mortgage or deed of trust made in good faith for value as to any Lot or Lots or portion of Lots in the Development; but this Declaration shall be binding upon, and effective against any mortgagee, trustee or owner, whose title or whose grantor's title is or was acquired by foreclosure, trustee sale or otherwise.

GENERAL PROVISIONS

1. Enforcement. If any party shall violate or attempt to violate any of the covenants or restrictions contained in this Declaration, it shall be lawful for any Owner to prosecute proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and either prevent him or them from so doing or to recover for such violation.
2. Right to Enforce. Failure to enforce any of the covenants, conditions, restrictions, easements, liens and charges now or hereafter imposed pursuant to the covenants, or restrictions should not be deemed a waiver of the right to do so thereafter, nor shall it be construed as an act of acquiescence or approval on the part of the Owners,

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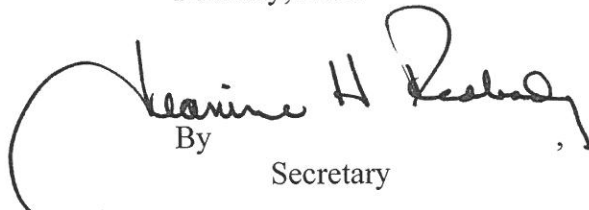
3. Duration. The covenants, restrictions, and conditions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, devisees, successors and assigns for a term of thirty (30) years from the date this Declaration is recorded. After which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then Owners has been recorded, agreeing to modify said covenants and restrictions in whole or in part.

4. Severability. The invalidation of any one of these covenants or restrictions by Judgment or Court Order shall in no way affect any other provisions which shall remain in full force and effect.

5. Amendments. This Declaration of Covenants, Conditions, and Restrictions may be amended by Developer until it divests itself of the responsibility for architectural control. It shall be conclusively presumed that the Developer has not divested itself of responsibility for architectural control unless there is a sworn affidavit of record stating. After that time, this Declaration may be amended by an instrument signed by the Owners of not less than eighty (80%) percent of the Lots. Any instrument amending, modifying or canceling this Declaration must be properly filed and recorded before it shall be effective.

IN WITNESS of its terms and conditions, the undersigned, being the Owner and Developer, have caused this Declaration to be executed the day and year first above written.

Peabody, LLC.


By _____
Secretary

12812

A000630071

POLK COUNTY RECORDER
POLK COUNTY, MINNESOTA

CERTIFIED, FILED, AND
RECORDED ON
05/03/2006 09:00AM
PAGES: 12
REC FEES: \$46.00

MAXINE J. NEWHOUSE - ACTIN

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POLK COUNTY RECORDER

By Maxine Newhouse Deputy

