

Lowther Heights

Covenants and Agreements

The intent of these Covenants and Agreements is to have reasonable conformity in the quality of built product in the neighbourhood while allowing reduced maintenance and increased long-term durability of building products. General rules echo common-sense understandings that people and communities abide by to foster welcoming and attractive neighbourhoods. When any doubt or question arises regarding the suitability of any building materials, or interpretations of the covenants, please consult with the Developer.

The Grantee or Grantees, as applicable, (herein called the "Grantee") covenants and agrees with the Grantor (herein called the "Developer") to observe and comply with the following restrictions and agreements made in pursuance of a building project established by the Developer. The burden of these covenants shall run with the lands hereby conveyed, being the lands described in Schedule "A" annexed hereto (herein called the "Lands") forever, and the benefit of these restrictions shall run with each of the lots in Lowther Heights lots 1-16 inclusive in the Resort Municipality of Stanley Bridge, Hope River, Bayview, Cavendish and North Rustico, Queens County, Prince Edward Island, and as shown on a plan of subdivision approved as No. 1144179 . These restrictions shall be binding upon and enure to the benefit of the parties hereto and their heirs, executors, administrators, representatives, successors, and assigns.

The Grantee shall comply with all federal, provincial, and municipal laws, regulations, by-laws, building codes and zoning in connection with both the construction of any dwelling building and the activities conducted upon the Lands.

1. DURATION

The covenants and restrictions of this Declaration shall run with and bind the land, for a term of Twenty (20) years from the date this Declaration is recorded after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Then-Owners of two-thirds of the lots has been recorded, agreeing to change said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change be effective unless made and recorded three (3) years in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

2. IDENTIFICATION OF LANDS

The lands to which these restrictions apply are the Lands described in Schedule "A" hereto annexed and conveyed by this Deed.

3. CONSTRUCTION OF RESIDENCE AND USE OF LAND

A. Restrictions

- (i) No more than one dwelling building shall be erected or stand at any time upon the Lands except with the express consent of the developer.
- (ii) No dwelling building shall be erected or stand on the Lands other than a newly constructed permanent, private dwelling building to and for the use of a single family. No temporary structures, mobile or prefabricated homes or trailer homes are permitted.
- (iii) No dwelling building shall be erected or stand upon the Lands or any of the aforesaid lots or any part thereof which has a floor area of less than a total of 1400 square feet without the written permission in writing of the Developer.

In the case of a one and one-half and two-story structure a minimum of 800 square feet shall be provided on the main floor. Final building plans, including those for the attached, semi-detached, or detached garage, must be approved by the Developer prior to the commencement of construction.

Living space shall be calculated and measured from the outside measurements of the main walls of the dwelling building excluding the garage, porch, veranda, sunroom, attic, basement and/or semi-basement.

No dwelling building shall be constructed on posts and all dwelling buildings shall be constructed on either a concrete foundation or frost wall.

The design of the dwelling building, its location upon the Land, the colour of all roofs, exterior woodwork, siding and trim and all exterior masonry of the buildings to be erected shall be approved by the Developer in writing. In approving such plans, dimensions, specifications, site plans and plot plans, the Developer may take into consideration the material and colour of all roofs, exterior walls, woodwork, windows, hardware and lighting fixtures, fencing, paving and landscaped details proposed and the harmony thereof with the surroundings and the effect of the structures as planned on the outlook from adjacent or neighboring properties. Dwelling buildings shall use material for exteriors, including wood, fiber cement board, vinyl, stone and brick. The Developer shall notify the Grantee of its decision to either approve or reject the said plans, dimensions, specifications, site plans and/or plot plans within fourteen (14) days of being provided with all of the said plans, dimensions, specifications, site plan and plot plan.

The Grantee shall be responsible for any damage to curbs, gutters and any underground services occasioned during construction, or any works carried on by the Grantee on the lands of the Grantee.

The Grantee agrees that in the event any survey pins are lost or removed from the lands of the Grantee during construction or otherwise, the Grantee, at his cost, shall cause a licensed surveyor to replace any such survey pins that have been removed or lost.

(iv) Construction of the dwelling building shall be completed within one year of commencing construction but may be extended with permission.

So long as the Lands remain vacant, the Grantee shall keep the surface of the Lands in a good state of repair so as not to interfere with adjoining lot owners' enjoyment of their lands. Specifically, the Grantee agrees that the Grantee shall provide minimum lot maintenance by periodically cutting the grass and weeds to the tree line, pruning any damaged shrubs and trees, removing all the pruned materials, and removing any dead shrubs, fallen limbs and dead trees on the Lands and if the Grantee fails to provide this minimum maintenance, the Grantor, after two weeks' written notice to the Grantee, may enter upon the Grantee's Lands and perform the said minimum maintenance and the costs of such shall be paid by the Grantee to the Grantor and the costs constitute a debt due from the Grantee to the Grantor.

(v) The Grantee shall be wholly responsible for construction and maintenance of any well, septic tank and field tile. No outdoor toilets are permitted except during construction.

There shall be no construction of any well or septic system which contravenes any Municipal or Provincial regulations. The Grantee shall be wholly responsible for construction and maintenance of their own septic tank and field tile, which shall be in accordance with the specifications established by provincial regulation and by government departments including, but not limited to, the system requirements imposed by the Province of Prince Edward Island and the Resort Municipality.

(vi) There shall be no occurrence or activity on the lands which contravenes any applicable Municipal, Provincial, or Federal regulation law.

(vii) No occupancy of the dwelling building shall occur until the dwelling building is substantially complete.

(viii) Any dwelling building damaged by fire must be removed or repaired within 60 days of the date of the fire.

(ix) Additions of accessory buildings must conform to the municipal bylaws. and not more than 2 ancillary buildings, i.e., garage, boat house.

No noxious, dangerous, offensive, or noisy activity shall be permitted on any lot. Quiet time shall be generally from 11pm through 7 am daily.

Each property owner shall provide suitable containers for the collection of refuse which shall be screened from view and protected from disturbance.

The Grantee shall connect the dwelling building on the Lands to electricity via an underground conduit from the hot line to the dwelling.

B. Written Approval Required:

No building, fence, wall or other structure shall be commenced, erected or maintained upon the land, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Developer.

(i) Notwithstanding anything herein contained, no buildings, fences higher than four feet, hedges, gates, walls, posts or other structures of any kind shall be placed upon the Lands unless the plans, dimensions, specifications and location thereof (as indicated by a siting plan showing nature, location, colour, material and height) shall have been submitted prior to commencement of construction and approved in writing by the Developer. Such approval not to be unreasonably withheld.

Driveways shall be completed within two years of home construction. A suitable period or time may be prudent to allow settling of earthworks and gravel for driveways. All driveways shall be surfaced by asphalt, brick/paving stones or concrete.

(ii) No signs, billboards, placards, notices or other advertising or informational material of any kind, except signs offering the Lands for sale, of a size and type ordinarily employed by real estate agents, shall be placed on the lands, dwelling or other structure on the Lands without the prior written approval of the Developer.

(iii) No soil, sand or gravel shall be removed from the Lands except with prior written approval of the Developer.

(iv) No exterior television or radio aerials or satellite receivers larger than 90 cm in diameter may be erected or maintained on any part of the said lands without prior written approval of the Developer.

C. Use of Lands

(i) The Lands and any buildings thereon shall not be used for the purpose of any profession, trade, employment, service, manufacture, or business of any description (including the breeding of pets for sale), nor as a school, hospital or other charitable institution, nor as a hotel, apartment house, rooming house or place of public resort, nor for any sport (other than such games as are usually played in connection with the occupancy of a private residence), nor for any purpose other than a private residence for the use of one family only to each dwelling.

Trade, Business, or commercial activity shall only be permitted where limited engagement with the public, other businesses (courier), or customers at the home occurs. The long term or short-term rental of a home shall be permitted. Tenants must abide by all covenants, rules, and regulations, including limiting undue noise or disturbance of others.

No lot shall be further subdivided.

(ii) Nothing shall be done upon the Lands that is or would likely be a nuisance to the occupants of any neighbouring lands or buildings within the subdivision.

(iii) The Grantee shall at all times keep the Lands and any buildings or structures erected therein in tidy condition, including the cutting of grass. The Grass on vacant lots must be cut at least once per month during June, July, and August.

(iv) No excavation shall be made on the Lands except excavation for the purposes of building or for the improvements of the gardens and grounds thereof. Excavations will be exposed for a minimum length of time, piles of soil will be protected against erosion, and disturbed surfaces will be promptly finished to avoid siltation or pollution of any watercourse.

(v) No building waste or other material of any kind shall be dumped or stored on the said Lands, except clean fill for the purpose of leveling in connection with the construction or erection of a dwelling or other structure thereon or the immediate improvement of the grounds.

(vi) The Grantee shall landscape the Lands as soon as practicable after completion of construction, and in any event, within one year after the completion of construction of the dwelling on the Lands, and thereafter shall keep the landscaping in good appearance.

(vii) No major repairs to any motor vehicle, boat or trailer shall be affected on the Lands, except within a wholly enclosed garage. No portion of the Lands shall be used for the storage or repair of derelict vehicles.

(viii) Vehicles shall be parked in the garages or in the driveway of the residence. Driveways should be large enough to accommodate vehicles generally used by the residents of the property. Vehicles not in use by the persons domiciled in the residence are not permitted to be parked on the Land. The Land is not intended as a storage place for vehicles not in daily use.

(ix) No trash or debris shall be stored or burned on site.

Firewood shall be stored in an allowed building or blocked piled at the rear of said buildings out of sight of the neighbors.

(x) No owner of any animal shall permit it to run at large off their property, at any time.

(xi) There shall be no use of snowmobiles, ATVs, dirt bikes or other off-road motorized vehicles in the subdivision.

(xii) No cattle, hogs, sheep, poultry or other stock and no animals or birds other than household pets normally permitted in private homes in urban residential areas shall be kept on any of the lands and breeding of pets for sale or other purpose is not allowed.

4. RESTRICTIONS SEVERABLE

The restrictions herein are severable, and the invalidity or unenforceability of any restriction shall not affect the validity or enforceability of any other restriction.

5. SUBSEQUENT PURCHASER

The Grantee agrees to obtain from any subsequent purchaser or transferee a covenant to observe the restrictive covenants and agreements herein set forth including this clause.

6. ALTERATIONS TO COVENANTS

The Developer may alter, waive, or modify any of the foregoing building and other restrictions, provided the substantial character of the covenants is maintained.

7. DEVELOPER RIGHTS

The Grantee hereby agrees to consent to any future land development by the Developer.

The Developer shall have the right to convey to any governmental agencies or other public authorities any part of its remaining lands for parks, recreation, or other similar purposes, for roadways or for pipes or conduits for sewage, drainage and electricity.

The Developer shall have the right to grade the lands within and adjacent to the Lands as may be required for drainage and the construction of the streets, walkways, and other improvements necessarily incidental to the development.

The Developer, its successors and/or assigns, may, in his sole discretion and without the consent of the Grantee, alter, waive or modify any of the foregoing building and other Covenants, provided their substantial character is maintained.

8. ENFORCEMENT

Enforcement of these Covenants and restrictions shall be by any proceeding at law or at equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or recover damages, and against the Land to enforce any obligation created by these Covenants, and failure by the Developer to enforce any Covenant or restriction herein contained shall not be deemed a waiver of the right to do so thereafter.

9. AMENDMENTS

Any such amendment shall be effective upon registration in the Office of the Registrar of Deeds for Queens County, Province of Prince Edward Island. The recital in any such amendment that it has been executed and acknowledged by the specified percentage of Owners shall be conclusive and binding on all persons.

Any rights reserved or granted to Declarant and/or Developer under this Declaration may not be amended, revoked, or modified in any way so long as Declarant owns any Lot or Unit on the Property, any of the land described in Schedule "A", or any other land adjacent to the

Development without the written consent of Declarant and/or Developer. Such consent must be included in any registered amendment to be effective.