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FILED  
MAY 24 2005  
RANDY R. SCHREIFELS  
COUNTY AUDITOR

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COUNTY RECORDER  
STEARNS COUNTY, MN  
DIANE GRUNDHOEFER

BY [Signature] DEPUTY

### DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS THE HIGHLANDS THREE

Known all men by these presents, that Lumber One Development Company, L.L.C., a Minnesota Limited Liability Company, being owner of all the following described premises situated in the County of Stearns, State of Minnesota, to-wit:

The Highlands Three, according to the plat thereof, on file and of record in the office of the Stearns County Recorder, Minnesota.

desiring to establish the nature of use and enjoyment of said lands, do hereby declare said premises may be subject to outstanding flowage rights and privileges, conditions and restrictions as may have been previously imposed upon the Subject Property by conveyances now of record, and do further declare said premises subject to the following express covenants, stipulations, and restrictions, to the use and enjoyment thereof, all of which are to be construed as protective covenants and restrictive running with the title to said premises and with each and every part and parcel thereof;

1. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them, with no modifications allowed, until such time as a majority of the addition (51%) has been developed, at which time said covenants shall be automatically extended for successive periods of five (5) years, unless by vote of a majority of the then owners of the land, it is agreed to change said covenants in whole or in part.
2. If the parties hereto, or any of them, or their heirs or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real property situated within the boundaries of the premises hereinabove described, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent him or them from so doing or to recover damages or other dues for such violations.
3. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

4. The premises and each part, parcel, lot, or plot thereof shall be used exclusively for single family residential purposes. No structures shall be erected, altered, placed, or permitted to remain on any part of parcel thereof which is in single ownership, other than one detached single family dwelling and private garage, and such other outbuildings and improvements as shall be authorized by the neighborhood association committee hereinafter constituted.
5. No building or improvement shall be erected, placed or altered on any part, parcel, lot or plot within the boundaries of the premises above described, until the building plans, specifications, and plot plan showing the location of such buildings have been approved in writing as to conformity and harmony of external design with existing structures in the area protected by these covenants, and as to location of the building with respect to topography and finished ground elevation by a committee composed of two (2) members and to be known as THE HIGHLANDS THREE NEIGHBORHOOD ASSOCIATION COMMITTEE, which committee shall be constituted for the term of five (5) years following the date of the original declaration of the following named persons: Ted Schmid and Chad Carlson, and upon the expiration of the initial five (5) year term of the members of the neighborhood association committee, the said committee shall be composed of two (2) members, all of whom shall be designated for a five (5) year term by election by a majority of the then property owners in the protected area, and such an election shall be held for each succeeding five (5) year period thereafter until the expiration of these covenants. In the event of a vacancy occurring in said neighborhood association committee, by resignation, death, disability or disposal by the committee member of his property in the protected premises, such vacancy shall be filled for the unexpired term by election by the then The Highlands Three Neighborhood Association Committee.
6. No noxious or offensive trade or activity shall be carried on upon any building site, tract or parcel of land in the protected area, nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood; no livestock nor wild or domestic animals of any kind shall be kept or maintained, or stabled on any residential building site, other than not more than two (2) dogs, or not more than two (cats).
7. No trailer, basement, tent, shack, garage, barn, mobile home, side by side or other outbuildings erected in the tract shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.
8. No residential structure shall be erected or placed on any building site which main structure does not have an attached 20'x20' garage or larger. No wood basements will be permitted. No residential structure shall be erected or placed on any building site which has a floor area exclusive of open porches and garages of less than the following:
  - a) Rambler - 1100 square feet on the main living area.
  - b) Bilevel - 1050 square feet on the main living area.

- c) Trilevel/Multilevel - 1000 square feet of finished living area on the primary living levels.
  - d) One and one half Story - 1,300 square feet on the top two floors.
  - e) Two Story/Two and one half Story - 1,500 square feet on the top two floors.
9. No residential structure shall be erected that does not provide for sodded front and side yards.
10. Easements for the installation and maintenance of municipal and public utility and drainage facilities are reserved over the lands as shown on the Plat and are subject to the following provisions:
- a) Except as provided below, all claims for damages, if any, arising out of the construction, maintenance and repair of utilities or on account of temporary or other inconvenience caused thereby against the interested owners, or any utility company or municipality, or any of their heirs, successors, assigns, agents or servants are waived by purchasers of lots within the subdivision.
  - b) No structure, planting or other material shall be placed or permitted to remain within utility easements which may damage or interfere with the installation and maintenance of utilities or within drainage easements which may obstruct or retard the flow of water through the drainage channels within the easements.
  - c) The easement areas of each lot and all improvements therein shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company, or the City of Albany is responsible.
11. No sod, soil, sand, or gravel shall be sold or removed from any part of the premises, except for the purpose of excavating for the construction or alteration of a residence or an appurtenance on said premises, or for the proper grading thereof, any excess of soil remaining from excavation or grading, and not otherwise used by the owner in the improvement of his own site, shall be disposed of properly within The Highlands Three in which event it shall be placed where so designated by neighborhood association committee.
12. No fence, hedge, boundary wall or retaining wall shall be erected, constructed, grown or maintained on or around any building site or lot in said subdivision, without the written approval of the neighborhood association committee, as to its location, material, style, height, and harmony with the landscaping design in the area.
13. The premises shall be subject in the use thereof to the lawful zoning, subdivision, and other land use ordinances of the City of Albany.

14. No mailboxes shall be located on any premises within The Highlands Three other than at locations approved by Lumber One Development Company LLC and the Albany postmaster.
15. No patio shall be constructed on the side yard on any premises unless it is twenty-two (22') feet from the side yard property line.
16. No commercial trade or business of any kind shall be carried on, in or from any part of the lands which are subject to these covenants. The owner or occupant of any homesite subject to these covenants shall do nothing upon his premises which shall be or become a hazard, nuisance or annoyance to the other owners of homesites in the lands subject to these covenants.
17. No trash, garbage, or other debris shall be kept on the premises, and each owner of the homesite covered by these covenants shall promptly carry away or cause to be carried away all such trash, garbage or debris, so that the premises belonging to each owner shall be clear and orderly. No more than four (4) vehicles, garaged under roof, shall be kept on or at any building or homesite covered by the covenants, and no parking shall be permitted on the common easement road or public roads; no junk or wrecked automobiles shall be brought upon or kept, or remain exposed upon the premises, and no commercial automotive repairs shall be undertaken or permitted on any homesite; in addition to the automobile or automobiles of the homesite owner, such owner shall be permitted to have and keep upon his premises not more than one (1) recreational vehicle, which need not be kept under roof, such as one (1) boat and trailer, or one (1) snowmobile and trailer, or one (1) camper (provided the same is not used for residence purposes while on said homesite).
18. Compliance with these covenants shall not excuse noncompliance with land use ordinances upon the same subject of the public authorities; compliances with the land use ordinance of the public authorities shall not excuse noncompliance with these covenants.
19. Neighborhood association committee may remove, at lot owner's expense, any structure or condition which fails to conform with these covenants, state and local laws, upon notice to lot owner of such nonconformance and lot owner's subsequent failure to immediately remove such nonconformance.
20. All construction and use of said premises shall conform to state law and local ordinance. In the event the conditions contained in these covenants conflict with any state law or local ordinance, the latter shall govern. The lot owner is charged with knowledge of all such applicable laws.
21. All basement floor elevations and lot grading must conform to City of Albany approved grading plan.

Deeds of conveyance of said property, or any part thereof, may contain the above restrictive covenants by reference to this document, but whether or not such reference is made in such deeds, each and all of such respective covenants shall be valid and binding on their respective grantees. Violation of any one or more of these covenants may be restrained by any Court of competent jurisdiction, and damages awarded against such violator; provided, however, that a violation of these restrictive covenants, or any

one or more of them shall not effect the lien of any mortgage now of record, or which hereafter may be placed of record upon said lots or any part thereof.

IN WITNESS WHEREOF, the undersigned owners have hereunto set their hands this 20<sup>th</sup> day of MAY, 2005.

Ted R. Schmid  
Ted R. Schmid, Chief Manager  
Lumber One Development Company, L.L.C.

Chad Carlson  
Chad Carlson Land Development Coordinator  
Lumber One, Avon Inc.

STATE OF MINNESOTA)  
 ) ss.  
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of may, 2005, by Ted R. Schmid, Chief Manager, Lumber One Development Company, L.L.C.

Cynthia Lee Grunloh  
Notary Public



STATE OF MINNESOTA)  
 ) ss.  
COUNTY OF STEARNS )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of may, 2005, by Chad Carlson,\*Lumber One, Avon Inc.  
\*Land Development Coordinator

Cynthia Lee Grunloh  
Notary Public

Drafted By:  
Lumber One Development Company, L.L.C.  
P.O. Box 7  
Avon, MN 56310

