

**ALBERTA GOVERNMENT SERVICES
LAND TITLES OFFICE**

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***RESTRICTIVE COVENANT
AND
ARCHITECTURAL CONTROLS***

M.D. OF FOOTHILLS NO. 31

RESTRICTIVE COVENANT AS TO USE OF LAND

- A. The Municipal District of Foothills No. 31 of High River, Alberta (hereinafter referred to as the "Developer" is the registered owner of all the lands and premises situated in the Province of Alberta described as follows:

PLAN 0813068
BLOCK 9
LOTS 1 - 7, LOTS 9 - 13
EXCEPTING THEREOUT ALL MINES AND MINERALS

AND

PLAN 0813068
BLOCK 8,
LOTS 13 -17, LOTS 19 - 25
EXCEPTING THEREOUT ALL MINES AND MINERALS

- B. The Developer intends to sell the lots within the subdivision plan and desires to ensure that all developments upon the lots shall maintain certain standards of and of use for the benefit of all future property owners of the lots and for the benefit of all the Lots.
- C. The Developer is developing a planned housing subdivision on the lots and considers:
- (a) it is desirable for the greater enjoyment of the lots;
 - (b) it will preserve the value of the lots;
 - (c) it is for the benefit of all of the future owners of the individual lots;
 - (d) it will protect the owner of each lot against the improper development and use of surrounding lots as will depreciate the value of the lot;
 - (e) it will prevent haphazard or inharmonious improvements or repairs;

to impose certain restrictions and covenants on the lots and that in making sales of the lots that the lots shall be conveyed subject to the restrictions, covenants and limitations hereinafter set forth;

- D. Section 68 of the Land Titles Act, Alberta provides that an owner may grant to itself a restrictive covenant for the benefit of land which it owns and against land which it owns and the restrictive covenant may be registered under the Land Titles Act.

E. NOW THEREFORE THE OWNER AS DEVELOPER FOR ITSELF, IT'S TRANSFERREES, SUCCESSORS AND ASSIGNS DOES HERBY COVENANT AND AGREE AS FOLLOWS:

- (a) Construction of a primary residence must commence within one (1) year of purchase of any lot. Once the construction of a primary residence and/or accessory building has begun, construction of such building (including the exterior finishing) must be completed within one (1) year.
- (b) The lots shall be used for private single family residential purposes only. No multi-family (i.e. neither Duplex, apartment, attached or semi-detached house, nor any house designed for more than one family) shall be erected on any lot.
- (c) No mobile homes or moved on homes shall be placed on any lot. A new modular home in excess of 84 sq.m.(905 sq. ft.), placed upon on a full basement foundation may be accepted only upon approval by the Architectural Coordinator;
- (d) Only one attached or detached private vehicle garage having an area of less than 111.48 sq. m. (1200 sq. ft.) accessory to a primary residence, for personal use shall be permitted on any lot.
- (e) No more than one accessory building, in addition to the first private vehicle garage, of up to 150 sq. ft. in size, accessory to the primary residence, shall be erected on any one lot.
- (f) An accessory building or garage shall not be used as a dwelling unit.
- (g) No commercial businesses shall be operated on any lot, with the exception of a Home Office or Minor Home Occupation, unless a land use amendment has been approved by Council for the lot. Minor Home Occupations that meet the requirements defined under the current Land Use Bylaw and have the appropriate Development Approvals are encouraged
- (h) No sign or form of advertisement shall be permitted on any lot except a sign of a reasonable size indicating that the lot is for sale or for rent. However, each site may display a family name sign to identify the owner.
- (i) No driveway is to be constructed off the front or side yard of any lot. Driveway access to any lot shall be constructed off the rear yard or back alley.

- (j) The owners of the lots, shall not make any alterations to the lots that will impede, impound or divert the natural drainage or storm water drainage across the lots.
- (k) The elevations, slopes and grades of all lots must be maintained as per the grading plan. Any alterations to the lot grade and landscaping must be approved by the Municipal Engineer.
- (l) All trees planted on any lot shall be setback a minimum of three (3) meters from the Utility Right of Way within the lot.
- (m) No commercial vehicles, truck, or trailer with a design capacity of more than one tonne, or length or more than 6.7 meters, shall be permitted to remain on a lot except while actively engaged in loading or unloading.
- (n) No person shall be allowed to keep or maintain a, dismantled or derelict vehicle for more than 48 hours on any lot unless it is confined within the garage on the lot.
- (o) No more than one unlicensed vehicle shall be stored on any lot. Any unlicensed vehicles on any lot must be contained within the garage on the lot or within the driveway in the rear of the lot. No unlicensed vehicles may be parked on the residential street or in the rear lane.
- (p) No more than one Recreational Vehicles or trailers shall be parked or stored on any lot. The one permitted Recreational Vehicle or trailer must be fully contained within a garage on the lot or stored to the rear of the lot.
- (q) No materials or equipment, other than such as are usually stored in connection with the occupation of a building used for private residential purpose shall be stored on any lot.
- (r) No burning barrels. Garbage must be contained in enclosed animal and weather proof garbage storage receptacles and must be located at the rear lot line of the property.
- (s) No owner or occupier of any lot shall cause, commit, suffer, authorize or permit any act of nuisance.

F. All of the lots shall be subject to the restrictions and conditions herein set forth which shall be deemed to be covenants running with the land and appended to the land and shall be binding upon and ensure to the benefit of each lot and the registered owners of each lot while they are such registered owners from time to time.

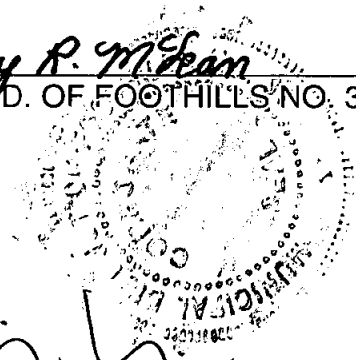
- G. If any of the preceding covenants is determined to be void or unenforceable in whole or in part, such invalidity or unenforceability of that covenant(s) shall not affect any other covenant and the remaining covenant(s) shall be deemed to be separate and distinct covenants.
- H. Notwithstanding the above restrictions, this Restrictive Covenant incorporates by reference all provision of the "Architectural Guidelines" which are attached hereto as Appendix "A":
- I. No covenants herein shall be deemed to restrict or supersede any provision of any development control by-law, land use regulation or any other bylaw resolution or regulation, passed or imposed by any governmental authority but the covenants herein are to be considered as additional restrictions.
- J. This restrictive Covenant may be enforced by the Grantor, its successors and assigns, the owner or owners of the lots, or any of them, and the parties agree that any breach of this restrictive Covenant constitutes irreparable harm to the Grantor, its successors and assigns, the owner or owners from time to time of the lots, or any of them, shall be entitled to relief by way of injunction or an order in the nature of an injunction against the offending party.
- K. Any dispute arising from the interpretation of the restrictions, covenants and conditions contained herein may be referred to arbitration pursuant to the Arbitration Act of Alberta and the arbitrator's decision shall be final and binding.
- L. No action shall lie against any owner of a lot for breach of any one or more of the covenants contained in the Restrictive Covenant unless such owner is registered as owner of the lot at the time such lot is alleged and proven by a court of competent jurisdiction to be in breach of the Restrictive Covenant. This covenant shall constitute an absolute defence to any such action and may be pleaded as such.

IN WITNESS WHEREOF the Grantor has executed this Restrictive Covenant Agreement the ____ day of _____, 20____.

Witness

Roy R. McLean

M.D. OF FOOTHILLS NO. 31



Witness

[Signature]

M.D. OF FOOTHILLS NO. 31

APPENDIX "A"

ARCHITECTURAL GUIDELINES

PURPOSE AND INTENT

The purpose and intent of these Guidelines is to endeavour to ensure to the fullest extent possible, that the residential subdivision is developed in an appropriate manner that:

- (f) is desirable for the greater enjoyment of the lots;
- (g) will preserve the value of the lots;
- (h) is for the benefit of all of the future owners of the individual lots;
- (i) it will protect the owner of each lot against the improper development and use of surrounding lots as will depreciate the value of the lot;
- (j) it will prevent haphazard or inharmonious improvements or repairs;

No specific theme, housing style or architecture will be imposed on the community by the Developer. It is not the Developer's intent to impose rigid building rules but rather to encourage development that does not impact the neighbouring parcels in a negative manner and preserve the enjoyment and value of the lots.

ARCHITECTURAL CONTROLS AND DETAILS

LOT GRADING

- Individual lot grading must be handled within individual home site property lines.
- Where possible, building plans should take advantage of the natural slope of the lot.
- Proper grading is the responsibility of the lot owner. The lot owner agrees to build in accordance with the Grade Plan of the Subdivision completed by MPE Engineering attached as "Schedule A, for sanitary sewer and lot drainage purposes.
- If the grades are altered from the Grade Plan, the lot that caused the alteration is responsible for ensuring their lot drains properly and does not cause any drainage difficulties to the adjacent properties.
- The builder/lot owner is responsible for all survey related costs in the preparation of site plans, which must show all grades and lot corner elevations, prior to plan approval.
- The builder/lot owner must provide the Architectural Coordinator with a footing elevation certificate after basement excavation and footings are formed to confirm the top of the footings.

LOT COVERAGE AND LANDSCAPING:

- All lots shall have maximum total lot coverage of 45% with all buildings together including accessory buildings.
- All areas of a site not covered by building or parking areas shall be landscaped.
- Undeveloped area of any front yard on a lot shall be landscaped to a minimum of 30% of plant material (such as, but not limited to, turf grasses);
- All undeveloped areas of any lot, outside of the above 30% plant material must be surfaced with material such as rock, mulch, concrete or other such landscaping material.
- The drainage pattern must be established and approved as per the "Architectural Guidelines Approval Process" prior to commencing construction and maintained by the building throughout the construction period.
- Lot owners to submit a building plan and grade plan along with a security deposit to the municipality for approval as per the "Architectural Guidelines Approval Process" prior to application for building permit.

DRIVEWAYS AND PARKING:

- All lots shall provide for a minimum two (2) off-street parking spaces, and shall ensure that sufficient setbacks are provided for the parking area to park vehicles totally on-site, without overhanging any property lines,
- Driveways shall be constructed to a standard acceptable to the Municipal Engineer.

EXTERIOR COLORS:

- Only Natural colors or earth tones shall be permitted on the exterior of buildings constructed on the Lots. Extreme, bright shades, and contrasts such as pink, orange or yellow will not be permitted or approved.

LIGHTING:

- All exterior lighting on any lot is to be directed towards the ground only. No exterior lighting shall unreasonably illuminate any adjacent lands.

BUILDER'S RESPONSIBILITIES

- The builder will be responsible for reviewing and verifying:
 - The legal survey plan;
 - The building grade plan, the final building grade and the actual top of footing;
 - The location of all utility connections, transformer boxes, telephone cable and pedestals, television cables, etc.

- These checks must be carried out prior to the design stage and the Architectural Coordinator will assume that the appropriate checks have been made by the Builder prior to the application for Development Approval.
- The granting of a Development approval by the Developer does not, of course, release the builder/owner from the obligation to comply with all municipal bylaws, building codes, statues and regulations which are applicable to the development and are imposed by law. The Developer and Architectural Coordinator will not be responsible for the legal requirements of that nature.
- The cost of repair due to builder damage to any underground utilities, trees, drainage or other items will be charged back and may be deducted from the Compliance/Cost of Repair Deposit. It is understood that the amount of charge backs will not be limited to the amount of the deposit.

CONSTRUCTION:

- While under construction, the owner of any lot shall ensure that reasonable precautions are taken to prevent fires and the accumulation or escape of debris and waste water and for the proper containment of construction and all other waste inside appropriate containers with lids.
- Builders are required to keep the lots and abutting streets clean and orderly during construction and marketing. No materials or debris shall be stored on an adjacent property or disposed of on-site. Builders found negligent will be charged for clean-up carried out by the Developer. All charges will be deducted from the builder's security deposit submitted in conjunction with the building permit.
- Excess fill arising from basement excavation, etc., must be immediately removed from the site unless it can be incorporated into the site in a manner acceptable to the Developer.
- Construction water must be handled with care to avoid damage to the area and must not be released into the natural drainage in the area.
- Proper construction insurance must be maintained for all development. Prior to construction, the Builder/Lot owner shall file satisfactory proof of comprehensive general public liability insurance providing insurance coverage of up to an amount of at least Five Million Dollars (\$5,000,000.00) for any single occurrence, and such insurance shall continue in full force and effect until such time as the final review on completion has been granted and the Compliance Deposit released.
- The owner of any lot under development shall be responsible for and shall indemnify and save harmless other owners of the lots from any and all damage to roadways, services and to structures or improvements on any of the lots.

SERVICING:

- Each lot shall be connected to and serviced by the Hamlet's sanitary and storm sewers, water supply, and underground electric power and telephone systems, and serviced with natural gas.
- All sanitary sewer and water connections to be inspected by the Municipal Safety Codes Officer or the Municipal Engineer prior to backfilling;
- The owner of the lot shall be responsible for the installation of a water meter. Installation requirements and policies are available from the Municipality.
- No person shall discharge or cause to be discharged any storm water or natural water to any sewer except a storm sewer or to a natural outlet approved by Council of the Municipal District of Foothills No. 31.
- Weeping tile must be installed below all basement footings and must drain to an approved sump as per CSA standards and Alberta Safety Codes.
- Sumps must be installed as per CSA standards and Alberta Safety Codes.
- The location of all discharge from the sump pumps to be approved by the Municipal Engineer of the Municipal District of Foothills No. 31;
- Down spouts must be installed on all buildings and discharged a minimum of 6.0 feet away from the building.
- No roof drains will be connected to weeping tiles or municipal storm sewer or sewer systems;
- All plumbing fixtures must be CSA certified and must be in compliance with the following guidelines;
 - All toilets installed shall have a flow capacity of no more than 6 litres (1.3 Imp. Gallons) of water per flush;
 - All shower heads must have a flow capacity not to exceed 9.5- 11 litres (2.0 – 2.4 Imp. Gallons) per minute at a pressure of 75 pounds per square inch;

SEVERABILITY:

- If any provision hereof is made void or rendered invalid or unenforceable by any law from time to time in force in the Province of Alberta, and if any provision hereof is determined by any court of competent jurisdiction to not be a covenant running with the land, the same shall not invalidate or render in any way unenforceable any of the remaining provisions of this Agreement.

ARCHITECTURAL GUIDELINES – APPROVAL PROCESS

DEVELOPMENT APPROVAL

1. Submit to the Architectural Coordinator:

- a. Two complete sets of blueprints, including floor plans, site plan, structural plans, elevations, and sections and specifications;
- b. Three plot plans prepared by an approved surveyor or consultant, on a scale of 1:200 showing foundations, sub-floor elevations, actual top of footing elevation and all grades around the house; all setbacks, decks, windows and door locations;
- c. Exterior color samples;
- d. An approved grade slip is required prior to submission of a Building Permit application;

2. Grade Slip

- To obtain a grade slip, the Builder/lot owner is to provide a site plan showing the proposed setbacks to the property lines.
- The lot is to be graded in accordance with the approved drainage patterns as set out in the Subdivision Grading Plan completed by MPE Engineering attached as "Schedule A."

3. Architectural Compliance / Cost of Repair Deposit

- This deposit is held by the Architectural Coordinator to ensure compliance with the Architectural Controls and to cover any damage that may occur to public property (sidewalks, curbs, and services).
- The deposit will be refunded without interest upon completion of the home and landscaping further to confirmation of compliance to the approved Architectural Guidelines. The refund owing upon compliance to the approved Architectural Guidelines will be less any cost to repair damages/deficiencies caused by the builder or sub trades.
- The compliance deposit may be secured by a Letter of Credit in an acceptable form to the Municipality or other security to the Municipality rather than by a cash deposit.

BUILDING PERMIT:

- A Building Permit must be obtained from the Municipal District of Foothills No. 31 prior to commencement on construction of all buildings on the lots;
- All inspections will be completed by the Municipal Safety Codes Officers during the construction period. It is requested that you give at least two days notice for the inspections.
- The owner or contractor must provide to the Municipal District of Foothills #31 a footing elevation and location certificate after the basement excavation is complete and the footings are formed.
- Poured footings that do not meet the requirements of the Municipal District of Foothills may need to be removed and replaced at the required elevations at the applicant's expense.
- A building grade form will be issued for each lot after the Municipal District of Foothills consulting engineer has reviewed the final house plans, prior to application for building permit.

FINAL REVIEW ON COMPLETION

- The Builder/lot owner must submit a Real Property Report to the Architectural Coordinator certifying that the house is located in accordance with the approved plans after construction is complete.
- A final site inspection will be carried out after completion of the home and subsequent landscaping. A compliance deposit of \$2,000.00 will be released following the satisfactory completion of the final inspection and resolution of all items arising from that inspection.



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