

Restrictive Covenants for the Crystal Highlands Subdivisions

[The following Restrictive Covenants apply to the Crystal Highlands No. 1, Summit Place and Sleeping Bear View Subdivisions located in Lake Township, Benzie County, Michigan. This version of the Covenants was transcribed from the following documents recorded with the Benzie County Register of Deeds:

- *Original Covenants (1973) - Recorded February 12, 1973 in Liber 148, Pages 759-769.*
- *Covenants Re-filed (1977) - Recorded December 2, 1977 in Liber 169, Page 986, et seq.*
- *Minor Amendment (2002) - Recorded January 24, 2003 in Liber 449, page 971-972.*
- *Amendments (2010) – Recorded October 29, 2014 at 2014R-04385.*
- *Amendments (2018) – Recorded date December 21, 2018 at 2018R-05231*

*Bracketed text in italics was added for clarification and was not in the original documents. This transcription is believed to be accurate and complete, **but its accuracy and completeness is not guaranteed.***

DECLARATION OF RESTRICTIVE COVENANTS

The Grantor [*Crystal Highland Orchards, Inc.*] desires to impose protective restrictions upon the Subdivision [*Crystal Highlands No. 1, Summit Place, and Sleeping Bear View*] and upon the development located in Lake Township, Benzie County, Michigan, known as “Crystal Highlands,” of which the Subdivision forms a part, in order to protect the economic value of the land, to provide for maintenance and upkeep, and to assure the attractiveness of the Subdivision and of Crystal Highlands. The Grantor intends to restrict additional portions of the Crystal Highlands development for single-family use, condominium use, as well as for other uses, under a common plan of restrictions. All references herein to any lot (“Lot”) shall mean and include the entire portion of such Lot as located on the aforesaid plat of the Subdivision, and any improvements thereon.

It is contemplated and intended that purchasers and future owners of the various Lots comprising the Subdivision and purchasers and future owners of property in subsequently developed portions of Crystal Highlands shall operate as an integrated entity with common benefits to be shared and common responsibilities to be borne by such purchasers and future owners. In furtherance thereof, such purchasers and owners shall participate in an association hereinafter described (the “Association”), the purpose and function of which shall be to administer such common benefits and responsibilities.

DECLARATION

NOW THEREFORE, in consideration of the mutual benefits to be derived by the Grantor, its successors and assigns, and all purchasers and future owners of the various Lots comprising the Subdivision, the Grantor does hereby revoke any Declaration of Restrictions previously executed and recorded with respect to the Subdivision, and does hereby declare, for itself, its successors and assigns, including the Association, and does hereby publish, declare and make known to all purchasers and future owners of the various Lots comprising the Subdivision, that such Lots shall be used, held and sold expressly subject to the easements, conditions, restrictions, covenants and agreements hereinafter set forth which shall be incorporated by reference in all deeds of conveyance and land contracts for the sale of such Lots and shall run with the land and be binding upon all grantees of Lots in the Subdivision, and upon their respective heirs, personal representatives, successors and assigns and upon the Association up to and including

January, 1995; provided, however, that from the date of recording of these Restrictions the members of the Association owning two-thirds or more of the Lots in the Subdivision may release all or part of said Lots from all or any portion of these Restrictions hereof, by an appropriate instrument for that purpose recorded in the Office of the Register of Deeds for Benzie County. Subsequent to January 1, 1995, these Restrictions shall remain in effect unless and until members of the Association owning two-thirds or more of such Lots shall determine otherwise. These Restrictions shall not become operative until the first conveyance by the Grantor of a Lot in the Subdivision. Until these Restrictions become operative, the benefits, reservations, burdens and impositions set forth herein shall be of no force or effect.

Violations. Violation of any restriction or condition or breach of any covenant or agreement herein contained shall give Association in addition to all remedies provided by law, the right to enter upon the land as to which such violation or breach exists, and to summarily abate and remove at the expense of the owner or purchaser thereof, any erection, sign, thing or condition that may be or exist contrary to the intent and meaning of the provisions hereof, and Association shall not be deemed guilty of any manner of trespass for such entry, abatement or removal. Failure of the Association to enforce these Restrictions with respect to any violation shall not constitute a waiver of the right to enforce them with respect to subsequent violations.

Common Property. The Grantor may at any time convey to the Association title to any real property owned by the Grantor and developed or reserved for the common benefit of all members of the Association. The maintenance of any real property so conveyed shall thereafter be the responsibility of the Association.

Additional Land. Should the Grantor develop or subdivide additional land Crystal Highlands [sic] and subject such additional land to restrictions substantially in the form herein imposed on Crystal Highlands Subdivision No. 1, including requirements for the payment of maintenance and recreation charges and the requirement for mandatory membership in the Crystal Highlands Owners Association as provided herein, such additional land may be incorporated with Crystal Highlands Subdivision No. 1 in one development for the purpose of the interpretation and enforcement of these Restrictions, at the option of Grantor. Should the Grantor elect to exercise this option, it shall so provide in the Declaration of Restrictions applicable to said additional land. In such event, these Restrictions shall be the Restrictions applicable to the additional land and shall be considered as reciprocal negative easements, thus making the Restrictions set forth herein which are applicable to Crystal Highlands Subdivision No. 1 enforceable by property owners of such additional land and making the Restrictions applicable to such additional land enforceable by property owners or purchasers in Crystal Highlands Subdivision No. 1. No provision herein contained shall in any way limit, circumscribe or govern the manner in which the Grantor may utilize or further develop or refuse to develop other land owned by it which has not been included within the plat of Crystal Highland Subdivision No. 1.

ARTICLE I

ASSOCIATION OF OWNERS

Section 1. The Association (the Crystal Highlands Owners Association) shall be a non-profit corporation and shall be incorporated under the laws of the State of Michigan.

Section 2. The Association shall manage, maintain and administer all matters pertaining to common expenses and common obligations of its members.

Section 3. Membership in the Association shall consist of the following:

- (a) All owners and purchasers of any fee interest or undivided fee interest in any real property included within Crystal Highlands Subdivision No. 1, as recorded in Liber 4 of Plats, Pages 55 – 61, Benzie County, Michigan, Records; and
- (b) All owners and purchasers of any fee interest or undivided fee interest in any real property included in any additional subdivision or subdivisions to be developed at Crystal Highlands; and all owners and purchasers of any interest in any condominium and/or cooperative housing units which may be constructed at Crystal Highlands; and
- (c) Such other persons as the Board of Directors of the Association may from time to time determine.

Section 4.

- (a) On all matters each member shall have one vote for each lot or other property interest giving rise to membership in the Association. In all respects the members of the Association shall enjoy equal rights as expressly provided in the Articles of Incorporation and the By Laws of the Association.
- (b) A membership in the Association and the share of any member in the funds and assets of the Association shall be construed as incidents of ownership of Lots in the Subdivision, and of property interests in any additional development or subdivision to which these Restrictions may be extended, and shall not under any circumstances be assigned or transferred except as title to each such Lot or other property shall be assigned, mortgaged or transferred. No mortgagee of any such Lot or other property shall become a member of the Association unless he or it shall have first foreclosed such mortgage and shall have become the owner of record of the property so mortgaged.
- (c) The Association shall keep detailed books of account showing all expenditures and receipts and shall specify the maintenance, repair and administration expenses of the Association and any other expenses incurred by or on behalf of the Association. Such accounts shall be open for inspection by the members during reasonable working hours.
- (d) The Board of Directors of the Association may designate an independent agent (which may be the Grantor or a related entity) to manage the affairs of the Association, which agent shall be entitled to receive reasonable compensation to be fixed by negotiation between it and the Board of Directors. Such compensation shall be an administration expense of the Association.
- (e) On or after January 1, 1975 the Grantor agrees that the Grantor's voting rights will be restricted to the lesser of the votes Grantor is entitled to as a result of Lot ownership, or one third of the eligible votes.

ARTICLE II

MAINTENANCE AND RECREATION FUND

Section 1. Maintenance and Recreation Fund (Annual Dues)

- (a) Each member shall pay to the Association the annual maintenance and recreation dues required by the restrictions applicable to the real property owned by the member. The amount of said annual dues shall be determined from year to year by the Board of Directors of the Association, as the needs of the Association may, in their judgment, require.
 - 1. Increases in the annual dues may be permitted if approved by a majority of the membership of the Association who cast votes.

2. Total ballots received must represent at least 2/3 of the members in good standing. Such a majority vote of those cast shall render any such additional dues binding upon all members.
 3. Ballots must be mailed or emailed to the membership, based on stated member preference, a minimum of 30 days before the ballot due date.
 4. Ballots returned from members, whether by mail or email, will be considered valid.
- (b) The maintenance and recreation fund shall be used for any of the following purposes as the Directors of the Association shall determine necessary and advisable: improvement and maintenance of such property as may from time to time be conveyed by Crystal Highlands Orchard, Inc. or others to the Association; planting of trees or shrubbery and the care thereof; collecting and disposing of garbage, ashes and rubbish; maintenance of vacant property, roads, road rights-of-way, subdivision entrance ways and other public areas; weed control; constructing, purchasing, maintaining and operating any community service or facility (other than community water or sewer systems) deemed necessary or advisable in the opinion of the Directors of the Association for the general welfare of the membership; for social activities; and for the expenses incidental to the examination of plans for the enforcement of the aforementioned restrictions.

Section 2: Special Assessments

New special assessments, in addition to any then outstanding, may be levied upon approval of the members of the Association.

- (a) New assessments may not exceed two hundred and fifty dollars (\$250) per lot or property interest, in any given fiscal year of the Association.
- (b) New assessments may be permitted if approved by a 2/3 majority of the membership of the Association who cast votes.
- (c) Total ballots received must represent at least 2/3 of members in good standing.
- (d) Ballots must be mailed or emailed to the membership, based on stated member preference, a minimum of 30 days before the ballot due date.
- (e) Such favorable votes may cover obligations to make special assessments payment in more than one year up to a maximum of twenty years.
- (f) Ballots returned from members, whether by mail or email will be considered valid.

Section 3. Failure to Pay Dues or Assessments

Any member who shall be thirty (30) days or more in default in the payment of the annual maintenance and recreation dues, or in the payment of any special assessment, shall not be in good standing and shall not be entitled to vote at any meeting of the Association nor to hold office in the Association until all such delinquencies have been paid. Delinquent payments of any maintenance and recreation dues or special assessments shall be subject to a payment penalty of up to five percent (5%) per month from the due date until paid. The annual maintenance and recreation dues and any special assessment shall be a lien and encumbrance on the land with respect to which the dues and assessments are made. A certificate in writing issued by the Treasurer of the Association shall be given to any member liable for said dues and assessments, upon that member's demand, setting forth the status thereof. The Association shall have the power and right in its own name to prosecute all suits which may, in the opinion of the Board of Directors, be necessary or advisable for the collection of such dues and assessments and to take such other steps as it deems expedient to impose a lien upon such land.

Section 4. Collection Procedures

The Board of Directors of the Association may enforce collection of delinquent dues and/or assessments by a suit at law for a money judgment or by foreclosure of the statutory lien that secures payment of dues or assessments. Each member shall be deemed to have granted to the Association the unqualified right to elect to foreclose such lien either by judicial action or by advertisement, and further, to have authorized and empowered the Board of Directors of the Association to sell, or to cause to be sold, the lot(s) with respect to which the dues and/or assessment(s) is or are delinquent and to receive, hold and distribute the proceeds of such sale in accordance with the laws of the State of Michigan.

Section 5. Fiscal Year

The fiscal year of the Association shall be determined by the Board of Directors of the Association.

ARTICLE III

RESTRICTIVE COVENANTS

Section 1. Uses of Property

- (a) All Lots in the Subdivision shall be used for residential purposes only and no building of any kind whatsoever shall be erected, re-erected, moved or maintained thereon except for occupation by one single family. A private garage, carport, or utility shed for the sole use of the owner, purchaser, or occupant may be provided. A single family shall mean one person, group of two or more persons, or the beneficiaries of a single family- oriented legal entity like family trusts, family LLC's and similar entities approved by the Board of Directors of the Association living together and related by consanguinity, marriage, civil union, or legal adoption. Persons thus constituting a single family may also include foster children or resident guests.
- (b) Mobile homes, travel trailers, recreational vehicles, tents or commercial vehicles as defined by the Association (except while making normal deliveries) shall not be stored or parked on any Lot except within a private completely enclosed garage unless prior written approval is obtained from the Board of Directors of the Association
- (c) No Lot in the Subdivision may be divided in any form for any reason; provided, however, that the Board of Directors of the Association may approve the subdivision of a vacant Lot if a portion of such vacant Lot is combined with an adjoining Lot and which thereafter shall be considered to be a part of such adjoining Lot for all purposes, and provided further that the division is in accordance with the provisions of Section 263 of Act 288 of Public Acts of 1967, as amended, of the State of Michigan.
- (d) The use of the common area-amenities is limited to single families and the beneficiaries of single family-oriented legal entities like family trusts, family LLC's, and similar entities approved by the Board of Directors of the Association. Such members or beneficiaries must be living together and related by consanguinity, marriage, civil union, or legal adoption. Persons thus constituting a single family may also include foster children or resident guests.
- (e) The Board of Directors of the Association has the right to develop and enforce regulations pertaining to the use of common area amenities.

Section 2. Character and Size of Buildings

- (a) No building or other structure shall be commenced, erected or maintained within the Subdivision, nor shall any addition to or change or alteration to any structure be made, except interior alterations, until the plans and specifications showing the nature, kind, shape, height and materials, color schemes, location on Lot and approximate cost of such structure and the grading plan of the Lot to be built upon shall have been submitted to and approved in writing by the Association.
- (b) Fences, garden walls retaining walls and similar devices shall be permitted within the Subdivision. However, such fences, garden walls and similar devices shall be constructed only after plans, specifications and location thereof shall first have been submitted in writing to and approved in writing by the Association. In no event shall any fences, garden walls or similar devices be permitted in the front yard of any Lot within the Subdivision, except that ornamental fences not exceeding three feet in height shall be permitted. A fence will be permitted around any privately owned swimming pool as a safety precaution or in accordance with ordinances regulating the construction and use of swimming pools. Fences or enclosures to be used as dog runs or to cage any other acceptable household pets shall be attached to the rear of the main residence building or to the rear of an enclosed attached garage or carport. Association shall have the right to specify any vegetation which may be required to be planted in conjunction with the erection of fences, garden walls or similar devices.
- (c) The Association shall have the right to refuse to approve any plans, specifications or grading plans which are not suitable or desirable in its opinion for aesthetic or other reasons; and in so passing upon such plans, specifications and grading plans, it shall have the right to take into consideration the suitability of the proposed building or other structure to be built with relation to the site upon which it is proposed to be built and the harmony to be achieved with respect to neighboring properties. It is understood that the purpose of this Restriction is to cause the platted lands to develop into a beautiful, harmonious residential community and if a disagreement over matters set forth in the Restriction shall arise, the decision of the Association shall control. In the event Association shall fail to approve or disapprove such plans, specifications or grading plans within sixty (60) days after the same shall have been delivered to it, such approval will not be required, provided, that plans and location on the Lot conform to, or are in harmony with, existing structures in the subdivision, these Restrictions, and any zoning laws applicable thereto.
- (d) In any case, with or without the approval of Association, no dwelling shall be permitted on any Lot in the Subdivision unless the living area shall be at least nine hundred (900) square feet.

Section 3. Water Supply and Sewage Disposal

- (a) All dwellings constructed, erected or located within the Subdivision must be served by a potable water supply system and sewage disposal system.
- (b) No individual potable water wells will be permitted in Crystal Highlands #1 and all potable water used in Crystal Highlands #1 shall be from the common water system which has been completed.
- (c) In Summit Place and Sleeping Bear View no common water system exists and all dwellings in these subdivisions shall be served by individual potable water wells.
- (d) Sewage disposal facilities shall consist of private septic tank and subsurface sewage disposal systems. All toilet facilities must be located inside a dwelling. All septic tanks and subsurface sewage disposal systems shall be constructed in compliance with the regulations of the Tri County Health Department and with applicable Michigan Department of Public Health Regulations.
- (e) Copies of the appropriate sanitary permits shall be submitted to the Association prior to the commencement of any new building construction in the Subdivision.

Section 4. Building Lines. No building on any of the Lots within the Subdivision shall be erected nearer than twenty (20) feet to the front Lot line or nearer than twenty (20) feet to the side lot line, or nearer than twenty (20) feet to the rear Lot line; provided, however, that the Association retains the right to approve variances from the terms of this Restriction by the giving of its written consent, subject at all times to the provisions of any applicable zoning ordinance.

Section 5. Animals. No chickens, other fowl, horses or livestock shall be kept or harbored on any of the Lots within the Subdivision. No animals shall be kept or maintained on any such Lot excepting household pets for use by the occupants of dwellings within the Subdivision. No animals shall be kept on any Lots for any commercial purpose. Household pets shall have such care as not to be objectionable or offensive on account of noise, odor or unsanitary conditions. Animals may be declared nuisances by the Association and must be removed within ten (10) days following the receipt by the owner of such animals of a request for removal in writing from the Association or its authorized representative.

Section 6. Signs. No sign or billboard shall be placed or maintained on any Lot except one professionally prepared sign advertising the Lot or house located thereon and Lot for sale or lease, and having not more than three square feet of surface area, the top of which shall be not more than three feet above the ground and shall not be attached to trees or other vegetation; provided, however, that such other signs as are permitted in writing by the Association may be erected and maintained on such Lots.

Section 7. Easements. There are hereby reserved easements on, in, over and through areas ten feet in width along all front, rear and side Lot lines of all Lots in the Subdivision for the installation and/or maintenance of telephone or electric poles, lines or conduits, sewer lines, gas lines or water mains, or for drainage purposes. The use of all or any part of such easements and rights-of-way may be granted or assigned at any time hereafter by the Grantor to any person, firm, governmental unit or agency or corporation furnishing any of the aforementioned services.

Section 8. Refuse. No refuse pile or other unsightly or objectionable [*sic*] materials shall be allowed on any of the Lots within the Subdivision unless the same shall be properly concealed. Refuse, ashes, building materials, garbage and debris of any kind shall be treated in such a manner as not to be offensive to neighboring property owners.

Section 9. Noxious Activity. No noxious or offensive activity shall be carried on upon any Lot within the Subdivision, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Reasonable regulations may be adopted by the Association concerning the use of snowmobiles, motorized sport vehicles and equestrian activities.

Section 10. Oil, Forestry, Mining Operations. Except with the written consent of the Association, all owners and purchasers of Lots within the Subdivision or other real property in the Crystal Highlands development, all holders of mineral rights and the Association shall be bound by the following: No forestry or commercial harvesting of trees, oil drilling, oil development or oil refining operations, or quarrying or mining operations of any kind shall be permitted upon or in any Lot or parcel nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot or parcel, and no derricks or other structures designed for use in drilling for oil or natural gas shall be erected, maintained or permitted upon any Lot or parcel. Not more than 25% of trees for any Lot may be cleared.

Section 11. Fuel Storage Tanks. All fuel storage tanks shall be covered if below ground level or if above ground, concealed from view by a device or enclosure approved by the Association.

Section 12. Exterior Completion Requirement. All buildings erected in the Subdivision shall have their approved exterior finishes completed within six months from the date construction of such buildings shall have commenced. The Association reserves the exclusive right to approve such extension or extensions of this period as it shall deem appropriate.

Section 13. Equipment for Combustibles. Furnaces, fireplaces, barbecues and incinerators shall be constructed so as to be spark-proof and to prevent ground fires. All burning of trash shall be performed in incineration devices approved by the Association.

Section 14. Hunting and Shooting. No hunting, shooting, or discharge of firearms shall be permitted in the Subdivision.

Section 15. Drainage.

- (a) No purchaser or owner of any Lot in the Subdivision shall build, grade or construct any driveway or road onto his Lot from any street in the Subdivision if such driveway or road shall cross any drainage ditch unless such owner or purchaser shall provide and install in such drainage ditch, in accordance with the requirements of the Benzie County Road Commission, a culvert approved by such Commission to provide clear and unobstructed flow through such drainage ditch. The installation of such culvert shall be such as to avoid ponding in such drainage ditch. Any damage to such drainage ditch which results from the installation of such culvert or from any other activity of such owner or purchaser shall be promptly repaired by and at the expense of such owner or purchaser.
- (b) Except with the written consent of the Association, no Lot in the Subdivision shall be graded or landscaped in any manner which will create or result in ponding on such Lot or on any Lot within the Subdivision.

ARTICLE IV

GENERAL PROVISIONS

Section 1. Each Restriction herein set forth is intended to be severable and in the event that any such Restriction or covenant is for any reason held to be void, such a determination shall not affect the validity of the remaining covenants and Restrictions set forth herein.

Section 2. The pronouns and relative words used herein are written in the masculine and singular only. Where applicable, such words shall be read as though they pertain to the feminine sex or to a corporation or as if written in the plural or neuter, respectively.

Section 3. Acceptance of a conveyance or the execution of any land contract to purchase any Lot within the Subdivision by any owner or prospective owner shall constitute agreement to all of the Restrictions set forth herein by such owner or purchaser, his heirs, executors, administrators and assigns whether or not any reference to these Restrictions is made in any such conveyance or contract.