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POLK COUNTY RECORDER
POLK COUNTY, MINNESOTA

CERTIFIED, FILED, AND
RECORDED ON
09/16/2004 09:00AM
PAGES: 10
REC FEES: \$19.50

MARLENE HANSON
POLK COUNTY RECORDER
By Marlene Hanson Deputy

DECLARATION OF RESTRICTIVE COVENANTS

The City of East Grand Forks, a municipal corporation under the laws of the State of Minnesota (herein "City"), whose street address is 600 DeMers Avenue and whose post office address is Post Office 373, East Grand Forks, Minnesota, 56721, owner of the All of the Plat of Waters Edge, First Addition to the City of East Grand Forks, Minnesota, (herein "Lot") further defined as Blocks One (1), Two (2), Four (4) and Five (5), according to the certified plat thereof hereby declares that in order to protect the community and the individual land owners the said property shall be subject to the restrictions and conditions hereinafter set forth and that such restrictions and conditions shall apply to and be a part of every conveyance or deed to said property or any part thereof, the same as though fully incorporated in any deed or conveyance thereof. The said restrictions and conditions shall be deemed and considered as covenants running with the land when conveyed or deeded and shall be binding on the heirs, executors, administrators, successors and assigns of any person to whom said land may have conveyed until January 1, 2005, on which said date these covenants, conditions, reservations and restrictions shall be automatically extended for a term of ten (10) years and thereafter in successive ten (10) year terms unless on or before the end of any such extension period or the initial period by vote of Sixty percent (60%) or greater of the then owners shall be by written instrument, duly recorded, declare a termination, of these restrictive covenants and conditions. Although these covenants, conditions, reservations and restrictions may expire any and all remedies for breach of these covenants, reservations or restrictions committed or suffered prior to expiration shall be absolute.

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The City may amend or modify these covenants, in any manner, until such time as City has conveyed one hundred percent (100%) of the Lots. Thereafter these covenants may only be modified by the written agreement of Sixty percent (60%) or greater of all the owners of the Lots. Any modifications to these covenants shall be recorded in the office of the Polk County Recorder for Polk County, Minnesota.

1. **LAND USE AND BUILDING TYPE** All Lots are zoned R1, except for Lot Seven (7), Block One (1) and Lot One (1), Block Five (5) as presently defined in the zoning ordinances of the City of East Grand Forks, Minnesota shall be used for single family residential purposes only. No building structure intended or adapted for business purposes, and no apartment house, double house, lodging house, rooming, hospital, sanitarium or professional office, or other multiple family dwellings shall be erected, placed permitted or maintained on any such Lot or any part of such Lot. No improvement or structure whatsoever other than a first class private dwelling house, outbuilding, patio walls, swimming pools, garages and fences subject to limitations and restrictions herein set forth may be erected, placed or maintained on any such Lot in the premises.

2. **DWELLING SIZE, QUALITY AND DRAINAGE**

- (A) No building shall be erected on any Lot unless the design, location, materials and workmanship are at harmony with existing structures and locations in the residential portions of the premises and such building must conform to these restrictive covenants.
- (B) With regard to all Lots, except Lots One (1), Block Five (5) and Lot One (1), Block Seven (7), no structure shall be erected, altered, placed or permitted on any building lot other than one detached single family dwelling with side yard set backs in compliance with the zoning ordinances of the City of East Grand Forks as existing on the date hereof. The front yard set back for all Lots in **Block 2, in Waters Edge First Addition** shall be forty (40) feet from the lot line. The front yard set back for all other Lots shall be thirty-five (35) feet from the front lot line. Notwithstanding, the City shall have the right to modify the above set backs in accordance with their approval rights contained in sub paragraph (F) below. As to Lot One (1), Block Five (5) and Lot One (1), Block Seven (7) it is contemplated that they will be controlled as a Planned Urban Development (PUD). Said lots will have restriction designated to protect the

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community and the individual land owners at the time of development.

- (C) Any dwelling structure on Lots 1-30, Block 2, Waters Edge First Addition (excluding porches, decks, basements and garages) shall have a structural area if a single story ramble type structure of not less than 1800 square feet, if a two story structure of not less than 2500 square feet and if a tri-level or quad-level structure of not less than 3000 square feet inclusive of all levels. All dwellings shall have an attached garage capable of storing a minimum of two (2) conventional automobiles which is no less than 575 square feet.
- (D) Any dwelling structure located on Lots 1 through 9, Block 1 except Lot Seven (7) and Lots 1 through 25, Block 4, Waters Edge, First Addition (excluding porches, decks, basements and garages) shall have a structural area if a single story ramble type structure of not less than 1400 square feet, if a two story structure of not less than 1900 square feet and if bi-level, tri-level or quad level structure of not less than 2500 square feet inclusive of all levels. All dwellings shall have an attached garage capable of storing a minimum of two (2) conventional automobiles which is no less than 575 square feet.
- (E) All Lots shall have trees on the boulevards according to the requirements of the City of East Grand Forks zoning ordinances as existing on the date hereof and additionally all such Lots shall have not less than two (2) trees in front of the Lot. All Lots shall have sidewalks according to the requirements of the City of East Grand Forks. All Lots shall have sodded front and side yards and sodded or seeded rear yards.
- (F) All plans and specifications of each dwelling house and appurtenant structure including elevations, exterior materials, siting of structures, landscaping, garages, driveways and walkways require approval of the City. (This shall be in addition to the satisfaction of all requirements of Chapters 4, 10, and 11 of the City Code and approval of the office of the City Inspector.) The City will appoint a committee of five (5) members to review and approve or

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disapprove of all plans and specification contemplated by this subparagraph hereinafter "Committee". The Committee may grant variances from literal compliance with these restrictive covenants in writing. In the event that Committee does not disapprove any plan within twenty (20) working days from the day Committee receives said plans shall be considered as approved. No construction shall be permitted during the twenty (20) day review period. Requirement for pre-approval of plans by the Committee shall cease and become null and void when all are improved and occupied. Upon the City conveying all Lots, the owners of Lots in the subdivision shall establish a neighborhood review board consisting of three (3) owners elected by a majority of the owners of Lots which are subject to the covenants herein set forth. The review board members shall serve until their resignation or until a majority of the Lot owners elect a replacement. The review board shall review and approve or disapprove any plans and specifications for any alterations or modifications of any dwelling house, landscaping, walkways or other structures originally requiring approval by the Committee hereunder. The time limitations for approval or disapproval of requests shall be same as provided to the Committee hereunder.

3. **CONSTRUCTION TIME AND REQUIREMENTS.**

No evaporative cooler or heating equipment shall be placed, installed or maintained on the roof or wall of any building or structure, unless approved, in writing, by the Committee. All coolers shall be concealed. Construction of all primary structures shall be substantially completed within twelve (12) months of issuance of any building permit for the structures. Landscaping shall be completed as soon as weather permits following substantial completion of the primary structure. No outside storage of building materials shall be permitted on any Lot after the twelve (12) month construction period.

4. **GARAGE.** No garage shall be used for any purpose except in connection with the residence constructed on the Lot.

5. **OUTBUILDINGS.** Any detached deck, cabana or gazebo, shall comply with the following guidelines:

- (A) have a maximum of 144 square feet under beam;
- (B) comply with all setback requirements;

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(C) the building must architecturally conform and be compatible with the elevation, design and material of the main residential dwelling on the Lot.

(D) Shall be approved by the Committee in accordance with paragraph 2 (F) above.

6. **BASKETBALL, BACKBOARDS AND HOOPS.** No basketball backboards or hoops shall be attached to a dwelling structure on any Lot. A separate pole for installation of such equipment erected and maintained at the expense of the Lot owner shall be permitted.

7. **OCCUPANCY.** No private dwelling house erected upon any Lot shall be occupied in any manner while in the course of construction nor at any time prior to full completion. Full completion means no further construction is required to the exterior of the home, the City Inspector's Office has issued a "certificate of occupancy" and the site has been improved to establish final grade. Nor shall any residence, when completed, be in any manner occupied until made to comply with the approved plans and all covenants, conditions, reservations and restrictions herein set forth. No temporary house, temporary dwelling, temporary garage, temporary outbuilding, trailer home, recreational vehicle or other temporary structure shall be placed or erected upon any Lot unless approved by the Committee.

8. **LETTER AND DELIVERY BOXES.** The Committee shall determine the location, color, size, design, lettering and all other particulars of all mail or delivery boxes and standards and brackets and name signs for such boxes. Failure of the Committee to make the aforesaid determination shall not constitute a waiver of the right of the Committee or owners to make such determination with respect to any Lot in the future including the revision of mail or paper delivery boxes not previously approved by the Committee. No delivery boxes other than boxes for the U.S. mail and approved newspaper or periodical boxes shall be permitted on any Lot or abutting such Lot without written authorization of the Committee.

9. **COMMERCIAL VEHICLES.** No oversized commercial vehicles, construction or like equipment or mobile homes or travel trailers of any kind shall be permitted on any Lot of the subdivision unless first approved by the Committee and kept in a garage completely enclosed. (Oversized Commercial vehicle is defined in Minnesota Statute section 171.01 Subd. 22.) Motor homes, boats, snowmobiles, travel trailers and

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like recreational vehicles shall be temporarily permitted on the premises or Lots therein only for the purpose of loading and unloading such vehicle at the time of use. Under no circumstances shall any such vehicle be on the premises for more than forty-eight (48) consecutive hours.

10. **TANKS AND OTHER STORAGE.** No elevated tanks of any kind shall be erected, placed or permitted on any part of the premises or Lots located therein. Any tanks used in connection with any residence shall be located inside of the primary structure or walled sufficiently to conceal them from view from neighboring Lots, roads or streets. All heating equipment, garbage cans, equipment, coolers, wood piles or storage piles shall be walled in to conceal them from view of neighboring Lots, roads or streets. Plans for all enclosures of this nature must be approved by the Committee prior to construction.

11. **HORSES AND PETS.** No animals of any kind other than customary household pets (including birds) shall be kept or allowed on any part of the premises or any Lots thereof.

12. **UTILITY LINES, RADIO AND TELEVISION ANTENNAS.** All electrical service and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead. There shall be no exposed or exterior microwave towers, television or radio antennas and no satellite dishes permitted on residential Lots unless installed in such a manner as to be hidden from public view from the front of the Lot. This restriction may be waived by the Committee for a specific Lot.

13. **NUISANCES.** No Lot shall be used in whole or in part for storage of rubbish of any kind whatsoever nor for the storage of any property or things that will cause such Lot to appear untidy, unclean or obnoxious to the human eye; nor shall any substance, thing or material be kept on any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property. Nuisances shall be interpreted by Committee or neighborhood review board.

14. **SIGNS.** No billboards or advertising signs of any kind or character shall be erected, placed, permitted or maintained on any Lot or improvement except as herein expressly permitted. A name and address sign used solely for the purpose of identification of dwelling house occupants may be placed on the Lot by said occupants provided the design of the sign is approved by Committee prior to installation. The provisions of this paragraph may be waived by the Committee only when

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in its discretion the same is necessary to promote the sale of property in the premises area or promotion of the premises. The Committee may erect, place and maintain such sign structure or structures as it deems necessary for the operation or identification of the subdivision.

Political signs, which are temporary, advertising political parties or candidates for election may be erected or displayed no sooner than fourteen (14) days prior to the date of the election and shall be removed within three (3) days after the date of the election. The size of any such sign shall not exceed fifteen (15) square feet.

15. **DIVISION OF LOTS OR USE OF MORE THAN ONE (1) LOT.**

No Lots shall be subdivided except as approved by the Committee and the City. All transfers of less than the entire Lot shall be prohibited without the written approval of the Committee. If more than one (1) Lot is used for erection of a single primary structure the two (2) or more Lots thus used shall be considered as a single Lot for all purposes.

16. **FENCES.** No fencing shall be allowed unless approved by the Committee prior to erection. The Committee shall have the absolute right to establish any fence design and construction as it deems appropriate, on any lot lines adjoining parkways, public spaces, public right-of-ways and the golf course. Any fencing allowed shall be maintained in a good condition by the lot owner and in a condition maintaining its original appearance.

17. **BASEMENTS.** No basement shall be constructed for temporary residential purposes and no basement structure shall be used for residential purposes unless and until the entire primary structure has been erected thereon and complies with the building code of the City of East Grand Forks. No trailer, tent, shack, garage, barn or other outbuilding erected on any Lot at anytime be used as a residence, temporary or permanent, nor shall any structure of a temporary character be used as a residence.

18. **SUBSEQUENT TRANSFERS.** No house or structure shall be moved in or on any of the Lots located on the premises. No structure when once erected shall be at anytime altered or changed so as to permit its use in any manner which would be in violation of these restrictions and conditions.

19. **CITY RESERVATION.** City reserves the right to change, layout new or discontinue any street, avenue, or right of way shown on the plats of the development not necessary for ingress or egress to and from a Lot or premises or any Lot owned by City, subject to the approval of the

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appropriate governing authority of the City of East Grand Forks if such approval is required.

20. **PRIVATE WATER AND SEWER.** No private septic tanks, drain fields or private or community wells shall be permitted in the premises or on any Lot constituting a part thereof. All properties in the subdivision shall be served by the City of East Grand Forks water and sewer.

21. **DRIVEWAYS.** All driveways or Lots in the premises must have a concrete or paving stone surface.

22. **GOLF COURSE.** Easements to permit the doing of every act necessary and proper to the playing of golf on the golf course adjacent to the Lots of the subdivision which abut the golf course and are subject to these restrictions are hereby granted and established. These acts shall include, but not be limited to, the recovery of golf balls within ten (10) feet of the lot line common to the golf course, the flight of golf balls over and upon the Lots, the use of necessary and usual equipment upon the golf course, the usual and common noise level created by playing the game of golf, together with all other common and usual activity associated with the game of golf and with all the normal and usual activities associated with the operation of a golf course. The owner of any Lot or the heirs, successors and assigns of such owner by accepting conveyance of a Lot acknowledges dangers inherent to persons and property posed by the proximity of a Lot to the golf course in the subdivision. By accepting conveyance of a Lot abutting the golf course the owner of such Lot assumes the risk of usual and normal hazards to abutting Lot owners by proximity to the golf course and such Lot owner for himself, his heirs, successors and assigns agrees to hold the City harmless from any such damage or claims of damages to persons or property arising from or associated with playing of the game of golf at the golf course. This restriction may, but shall not be required, to appear on deeds to all Lots abutting the golf course.

23. **MORTGAGES.** The breach of any of the foregoing covenants, conditions, reservations or restrictions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any Lot or Lots or portions of Lots in the premises, but these covenants, conditions, reservations and restrictions shall be binding upon and effective against any mortgagees or trustees or owners, whose title or whose grantors title is or was acquired by foreclosure, trustee sale or otherwise.

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24. **WAIVER.** No delay or omission on the part of the City or the owners of any Lots in the premises in exercising any right, power or remedy herein provided, in the event of any breach of the covenants, conditions, reservations, or restrictions herein contained, shall be construed as a waiver thereof or acquiesce therein and no right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the City for or on account of its failure to bring any action on account of any breach of these covenants, conditions, reservations or restrictions herein which may be unenforceable by the City or any other party.

25. **RIGHT TO ENFORCE.** The restrictions set forth shall run with the land and bind the present owner or owners their heirs, executors, administrators, successors and assigns and all parties claiming by, through or under them, shall hold and hereby agree and covenant with the owners of said Lots, their heirs, executors, administrators, successors and assigns, and with each of them, to conform to and observe said restrictions as to the use of said Lots hereby restricted and construction of improvements thereon. No restriction, however shall be personally binding on any person except in respect to breaches committed during his or their ownership of the particular property upon which such violation occurred. For any violation of the restrictions herein set forth the owner or owners of any Lot shall have the right to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce legal action for damages against the offender only. Failure of the City, the committee, the review board or the owner of any Lot, or Lots to enforce any of the restrictions herein set forth at the time of the violations, shall in no event be deemed a waiver of the right do so thereafter.

26. **SEVERABILITY.** In the event any one or more of the foregoing covenants, conditions, reservations or restrictions is declared for any reason by a court of competent jurisdiction to be null and void the judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of the covenants, conditions, reservations and restrictions not declared to be void or unenforceable but all of the remaining covenants, conditions, reservations and restrictions not expressly held to be void or unenforceable shall continue unimpaired and in full force and effect.

27. **DEDICATED RIGHT.** The premises shall be subject to any and all rights and privileges which the City of East Grand Forks or the County of Polk or the State of Minnesota may have acquired through dedication or the filing or recording of maps or subdivision plats as authorized by law and provided further that no covenants, conditions,

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reservations or restrictions or acts performed shall be in conflict with any zoning ordinance, land use law, building code, or other applicable law of the City of East Grand Forks, County of Polk or State of Minnesota.

28. CITY. The City shall have the right to grant and convey all its rights to enforce these covenants, conditions, reservations and restrictions to such community association, neighborhood review board or other entity as may be organized or established for such purpose at such time as in the sole judgment of the City such entity is able to enforce the restrictions herein contained. If no such community association, neighborhood review board or other entity is organized, the rights of the City shall vest in owners of the Lots when all Lots of the premises are sold or on January 1, 2015, whichever occurs last.

DATED: 9/16/04

CITY OF EAST GRAND FORKS, MINNESOTA

BY:

Lynn Stauss
Lynn Stauss, Mayor

BY:

Craig J. Mattson
Craig J. Mattson, City Administrator

Subscribed and sworn to before me this 16th day of September, 2004 by Lynn Stauss, Mayor and Craig J. Mattson, City Administrator of the City of East Grand Forks, Minnesota.

Bethany Anderson

Notary Public
Polk County, Minnesota
My Commission Expires:

