

BK395PG703

20

## PROTECTIVE COVENANTS OF RESTRICTIONS

## TOWER RIDGE

1. The land is to be conveyed:
  - a. Together with the right to pass and repass, by motor vehicle and otherwise, in common with others and subject to such reasonable restrictions as may be imposed from time to time by Hope F. Tower, over such roads as the Grantor may from time to time construct in the said TOWER RIDGE, reserving to the Grantor, however, the right to change the locus of said roads and to terminate such portion of said road as the Grantor may deem necessary or convenient, so long as the changes and terminations shall not deny the Grantee the right to pass over constructed roads providing access to a public way.
  - b. Subject to all rights of way and easements, all zoning and other governmental laws and regulations, and all other provisions of record.
2. The land is also conveyed subject to the following restrictive provisions with which the Grantee covenants and agrees to conform, and which shall run with the land and shall be construed as covenants real:
  - a. The land conveyed herein shall be used only for single family residential purposes. A dwelling may have as accessory to it a garage of not more than three car capacity and other accessory structures which may include storage building, boat sheds, terraces, decks, porches, playhouses and other customary accessory structures.
  - b. No house trailer, camping trailer, or mobile house shall be placed or maintained on said land except a camping trailer may be stored in a garage. No unregistered motor vehicle shall be allowed to remain on said land except as stored in a garage. No tent shall be placed or maintained on the land except tenting by children shall be permitted after a dwelling has been constructed on the land. No trade, business, or commercial activity of any nature shall be conducted on said land.
  - c. Two or more lots may be used by the Grantee for the erection and construction of a single-family dwelling and incidental building permitted under these restrictions, but the area consisting of such combined lots shall not thereafter be subdivided unless the requirements of these restrictions as to area conveyed and location of buildings are complied with according to the original lot boundaries as shown on a plan of land of TOWER RIDGE recorded with the Dukes County Registry of Deeds. No lot shall be subdivided or its boundary line changed, except with the written consent of the Grantor. The Grantor hereby expressly reserves the right to replot any two (2) or more lots shown on the said plan prior to their sale in order to create a modified lot or lots; and to take such other steps as are reasonably necessary to make such replotted lot suitable as a building site, including but not limited to relocating easements, walkways and rights of way to conform to the new boundaries of the said replotted lots.

BK395PG704

- 2 -

- d. No building or part hereof shall be erected, placed or permitted to remain on any lot within (25) feet from any private or public way and within (20) feet from any side and (20) feet from any rear lot line without the consent of Hope F. Tower.

*Handwritten initials: J.M. & S.S.*

No building or structure that exceeds the lesser of two and one-half (2½) stories or thirty (30) feet in height shall be erected, placed or permitted to remain on any lot.

- f. No building, wall, fence, sewerage system, water system, or other structure or installation, or anything used for habitation shall be erected, placed, constructed, altered, or maintained on the land conveyed herein until and unless its plans, exterior color plans, specifications, site location and landscape plans have been filed with and approved in writing by Hope F. Tower, and until the approval of any governmental agency having authority has been obtained. Hope F. Tower shall have the right to refuse to approve any such plans, specifications and locations, which are not suitable or desirable, provided, however that Hope F. Tower and her successors and assigns shall not unreasonably withhold approval of the same.
- g. Except as may be necessary for clearing area for buildings, structures, and driveways, no live trees greater than three (3) inches in diameter at a height of four (4) feet from the natural ground level, shall be cut, destroyed or removed and no change shall be made in the natural character of the land conveyed herein without the prior written approval of the Grantor, which approval the Grantor shall not unreasonably withhold. No trees specifically banded by the Grantor shall be removed without the prior written consent of the Grantor.
- h. No "For Rent", "For Sale" or signs of similar import shall be placed, constructed, altered, or maintained on the land conveyed herein without the prior written consent of the Grantor, and upon the violation of this paragraph, the Grantor shall have the right to enter upon the land to remove such signs or notice.
- i. No clotheslines or similar devices, trash or garbage or bottled gas containers shall be placed, constructed, altered or maintained on the land conveyed herein, unless screened from view of other lots and roads in a reasonable manner.
- j. No animals or fowls (except household pets) shall be kept on any lot. Pets causing a nuisance or destruction shall be restrained.
- k. No noxious, dangerous, offensive or unduly noisy activity of any nature, nor any activity that may be or become an annoyance or nuisance to owners of other land shall be permitted or maintained on any part of the land conveyed herein.
- l. In the event cable television facilities are available to the land conveyed herein, no outside television antennas or other antennas or aerials shall be placed, constructed, altered or maintained on the land without the prior written approval of the Grantor.

BK395PG705

- 3 -

- m. All buildings, structures, sewerage systems, water systems, installations and other improvements to be erected, placed, constructed, altered or maintained on the land conveyed herein must comply with all municipal and other governmental laws, zoning ordinances, by-laws, rules and regulations duly and validly affecting said land, and if any provision herein differs therefrom such variance shall not be construed as a waiver by the Grantor of the necessity of compliance with the terms hereof.
- n. The Grantor reserves the right to install, maintain, repair and replace under, over, and upon the land conveyed herein and any ways on which said land abuts or shall abut, such electric, light, power, telephone, and telegraph poles and wires, water, sewer, gas, and drainage pipes, mains and conduits, catch basins, surface drains and culverts; and such other facilities, installations, appurtenances, and things as the Grantor may deem necessary or convenient in connection with the provision of adequate drainage, sewerage disposal, water, gas, electricity, telephone and telegraph communications and other utilities to any portion of its land in the said "Tower Ridge" and the Grantor further reserves the right to grant to telephone, power, water and other public and private utility companies and corporations, to municipalities, and to such other persons and corporations as the Grantor may determine, said right of installation, maintenance, repair and replacement as above described, provided, however, that in the exercise of the rights reserved by this paragraph, the Grantor shall not unreasonably interfere with the use of the land conveyed hereby.
- o. No temporary structures shall be built upon the land other than those necessary and used in the course of construction of permanent buildings, and all such structures shall be removed immediately upon completion of any building operation. All structures shall be completed on the exterior within twelve (12) months from the start of construction, subject however, to strikes, accidents, acts of God, weather conditions, inability to secure labor, fire regulations, or restrictions imposed by any government or governmental agency, or other delays beyond the control of the Grantee.
- p. All chimneys intended for live fires shall have flues lined through the entire height with standard clay lining or other fire resistant material and shall be equipped with a suitable spark arrester. No trash shall be burned on the land conveyed herein, and all other burning shall be subject to the regulations of any governmental agency having authority.
- q. The Grantor or its agent may, at the Grantee's expense, enter upon any vacant land for the purpose of removing any trash which has collected on said land and any fallen trees or other unsightly growth, after giving the Grantee ten (10) days written notice of its intention to do so. The Grantor may at the Grantee's expense, enter upon the land for the purpose of pumping out or otherwise cleaning any septic tank or other sewerage system which has overflowed after giving the Grantee forty-eight (48) hours written notice. This paragraph shall not be construed to create an obligation on the part of the Grantor to perform these functions.

BK395PC706

- 4 -

- r. Each Grantee shall provide three off-street parking spaces for each lot conveyed hereunder, prior to the occupancy of any dwelling on any such lot.
- s. Together with each lot, the Grantor shall convey a one-forty-first (1/41) interest in the 17.89± acre open space area to be designated and used as follows:
- 1) "No Cut Zones" - Common areas A, B and D.  
These areas are intended as buffer zones, and as such are not to be used as recreation areas. Selective cutting and planting may be allowed to encourage visual barrier growth only. No public access or use shall be allowed.
  - 2) "Common Recreation Areas" - Common areas C and E.  
These areas are to be used for the common enjoyment of all Grantees, together with all residents of the Town of Oak Bluffs, subject to the following restrictions:
    - a) No permanent structures shall be erected without the specific prior approval of the Grantor.
    - b) No motorized vehicles shall be allowed.
    - c) No hunting, picnicking, camping, open fires, dumping of trash, or objectionable noise shall be allowed.
    - d) No cutting or removal of trees, other vegetation, or topsoil shall be allowed without the prior specific approval of the Grantor.
    - e) Use of any common recreation facilities which the Grantor may erect shall be limited to "Tower Ridge" lot owners and their guests.
    - f) Use of these common areas by the residents of the Town of Oak Bluffs shall be limited to the hours between sunrise and sunset.
    - g) It shall be the responsibility of the Grantor, together with the Town of Oak Bluffs to assure the use of these recreation areas in a manner respectful of the privacy, comfort, and dignity of all concerned. Continued violation of the above restrictions shall be cause for the Grantor in conjunction with the Town of Oak Bluffs Board of Selectmen to temporarily or permanently close the areas to residents of the Town of Oak Bluffs.
- t. The provisions of Section 2, paragraphs (a) through (s) of these covenants, shall run with and bind the land conveyed herein for a period of ninety-nine (99) years from the date of conveyance, and the Grantor or any successor corporation or association to whom the Grantor has specifically assigned its rights and obligations under these covenants shall have the right at any time or times during said period to proceed at law or in equity against any person violating or attempting to violate any

BK395PG707

- 5 -

provision contained herein, to prevent and abate such violations, to compel compliance with the terms hereof, to enter upon the land conveyed herein and remove any building, structure, sewerage system, water system installation, improvement, or thing constructed, erected, installed, or maintained in violation of the terms hereof, at the Grantee's expense, and to recover damages or other dues for any violation. Failure to enforce any provision herein contained in any particular instance shall not be deemed a waiver of the right to do so as to any continuing, subsequent, or other violation. The Grantor reserves to herself the right in her absolute discretion to permit other lands of the Grantor to be used in a manner that is prohibited on the land conveyed hereby, and such use of other provisions of these covenants as hereinbefore set forth. The invalidation of any of the rights and restrictions contained in these covenants, by judgement or court order, shall not affect any other right or restriction, which shall remain in full force and effect.

### 3. Miscellaneous

- a. The Grantor agrees to enter into such mutual easements as may be necessary from time to time to assure common usage of interconnecting paved roads within abutting approved subdivisions.
- b. As used in these TOWER RIDGE covenants, the term "Grantor" shall mean Hope F. Tower and include where applicable any successor and assign who has assumed the obligation of the principal developer of the subdivision. The term "Grantee" shall mean and include, where applicable, his, her, their, or its heirs, executors, administrators, and assigns. Any term used in the singular shall mean and include, where applicable, the plural, and vice versa.
- c. The Grantor shall, within three (3) years from the date of recording of the within covenants or within sixty (60) days from the date of conveyance of the last lot in the subdivision, whichever shall first occur, form an incorporated or unincorporated association (hereinafter referred to as the "Association"), of which all owners of lots in the subdivision shall be members, so long as they shall own such lot.
- d. The Grantee of each lot shall be subject to an annual charge to be assessed by said Association, upon conveyance by Grantor to said Association. The annual charges shall be established and applied by the Association for purposes that it deems appropriate.
- e. Hope F. Tower reserves the right to modify, amend, or waive any or all of the above-described covenants, agreements, and restrictions for any particular lot or any category of lots. Any such modification, amendment or waiver may be retroactive to the date hereof, and shall be effective when recorded with the Dukes County Registry of Deeds and shall specifically refer to these covenants as originally filed.

BK395PG708

- 6 -

IN WITNESS WHEREOF we have hereunto set our hands and seals this 16 day  
of June, 1982

Hope F. Tower  
Hope F. Tower

Rebecca P. McCarthy  
Richard L. Lyra

Acceptance by a majority of the  
Planning Board of Oak Bluffs

COMMONWEALTH OF MASSACHUSETTS

Dukes, SS

October 22, 1982

Then personally appeared the above named Hope F. Tower, and acknowledged  
the foregoing instrument to be her free act and deed, before me.

Severly W. King  
Notary Public

My commission expires: 8/27/87

Edgartown, Mass. October 22 1982  
at 12 o'clock and 32 minutes P.M  
Received and entered with Dukes County Deeds  
book 395 Page 705

Attest: Severly W. King  
Register