

Text in [bold & brackets] = proposed additions  
Text with ~~strikethroughs~~ = proposed deletions  
\* \* \* = unchanged text not shown  
Regular Text = Currently in Restrictive Covenants

Explanation of proposed changes  
↓

**DECLARATION OF RESTRICTIVE COVENANTS BY  
[PRESQUE ISLE HARBOR ASSOCIATION,  
AND] AMERICAN CENTRAL CORPORATION  
HEREINAFTER CALLED DEVELOPER**

**\* \* \*  
ARTICLE I  
DEFINITIONS**

**Section 1.** The following words when used in this Declaration or any supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

\* \* \*

(c) **“Common Properties”** shall mean and refer to those areas designated by the Developer **[on any plat and those included in the deed recorded by the Presque Isle County Register of Deeds at Liber 214, Pages 701-714.]** These lots are intended to be devoted to the common use and enjoyment of the owners of the Properties.

\* \* \*

(e) **“Owner”** shall mean ~~and refer to the equitable owner whether one or more persons or entities~~ **[the person]** holding any original lot situated upon the Properties whether such ownership be in fee simple ~~title~~ or as land contract vendee, and notwithstanding any applicable theory of the mortgage, shall not mean nor refer to the mortgagee except if the mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

\* \* \*

**ARTICLE II  
PROPERTY SUBJECT TO THIS DECLARATION  
ADDITIONS THERETO**

**Section 1. Existing Property.** The real property which is, and shall be held, transferred, sold, conveyed and occupied, subject to this Declaration is located in the County of Presque Isle, Michigan and is more particularly described as follows: **[Plats of:**

**PLAT OF NORTHLAND HEIGHTS #2**

~~Begin a subdivision part of the S.W. ¼ Sec. 20, N.W. ¼ Sec. 29 T.34N., R.8E. Presque Isle Township, Presque Isle County, Michigan.~~

- HARBOR MANOR**
- NORTHLAND HEIGHTS**
- NORTHLAND HEIGHTS NO. 2**
- GRAND HIGHLAND VIEW**
- HARBOR VIEW**
- HARBOR VIEW NO. 2**
- ESAU TERRACE**
- GRAND PINES NO. 1**

This proposal simply substitutes the Presque Isle Harbor Association for the old American Central Corporation, recognizing the true entity in existence at the time a new declaration is adopted.

Presently, what common properties are designated by the developer could be subject to dispute because they are not all listed on the plats, even though a recorded deed does list them all. Subsection (c) eliminates the possibility for such a dispute by including in the definition all common properties listed on the deed. Subsection (e) removes the “equitable owner” concept which in the case of a trust, could be interpreted to mean the beneficiaries, rather than the Trustee

This proposal makes clear all the subdivisions that are subject to the Restrictive Covenants.

**GRAND PINES NO. 2  
PRESQUE ISLE HEIGHTS  
NORTH BAY SHORES  
NORTH BAY HEIGHTS]**

all of which real property is referred to herein as "Existing Property".

\* \* \*

**ARTICLE III  
MEMBERSHIP  
AND VOTING RIGHTS  
IN THE ASSOCIATION**

**Section 1. Membership.**

- (a) ~~The ownership of each lot within the Properties shall constitute the owners thereof as a members of the Association, provided that if more than one lot has common ownership, such ownership shall constitute only a single member of the Association, and provided further that ownership shall mean legal ownership of the fee or equitable ownership as land contract vendee when the Developer or its successors or assigns have sold the same on land contract, provided further that no such lot shall have more than one such ownership, and further provided that no interest held as security only shall constitute ownership under this paragraph.~~  
**[Notwithstanding the number of owners of a lot, or the form of ownership, only one individual shall be a member of the Association. In the case of an individual fee owner of a lot, that owner shall be the member of the Association. In the case where a lot is owned in fee by more that one individual, or in the case where a lot is owned in fee by a corporation, limited liability company, partnership, trust or other entity, only one individual shall be chosen to be the member, and that individual shall be as designated in writing by the owners, or in the absence thereof, as recognized by the Association. The individual designated for membership by a corporation, limited liability company, partnership, business, trust, or other entity, must have a twenty-five percent (25%) ownership interest in said entity, or if no owner owns twenty-five percent (25%), he must have the largest ownership interest. The individual designated for membership by a bona fide estate planning trust may be either a current trustee or a current beneficiary. The Association shall have the power to recognize other individuals who do not satisfy the above criteria on a case by case basis. Provided, where no written designation has been provided to the Association, it shall not be required to recognize any individual as the member. Where a lot has been sold on a land contract or like arrangement, the vendee shall be deemed the owner. No mortgagee or other holder of a security interest shall be deemed the owner as a result of such interest.**

\* \* \*

**ARTICLE IV  
PROPERTY RIGHTS IN THE COMMON PROPERTIES**

\* \* \*

**Section 3. Extent of Members' Easements.** The rights and easements of enjoyment created hereby shall be subject to the following:

Con't from pg. 1

This proposal makes clear all the subdivisions that are subject to the Restrictive Covenants.

The existing language describing membership in section 1 (a) is unclear, permitting subversion of the definition, making implementation difficult, and resulting in dilution of membership. This proposal makes the definition and the implementation of it clear.

(a) ~~The Developer and the~~ Association, in accordance with its Articles and By-laws, may borrow money[ **only from a regulated, publicly held and traded financial institution**] for the purpose of improving the Common Properties and in aid thereof may mortgage said properties[ **with such a financial institution**]. **[The Association may only mortgage the common property where the improvement will be sited and shall in no case mortgage other common properties as security for an improvement on one of them.]** The members' rights and easements in the Common Properties shall be subordinate to any [such] mortgage given by the Developer or Association as security for funds borrowed for said improvements. Any [such] indebtedness which shall be created for the purpose of making improvements to the Common Properties shall be an obligation of the Association. In the event of a default upon any such mortgage, the lender or mortgagee shall only have the rights afforded under the mortgage or security agreement and under the laws of the State of Michigan including the right after taking possession of the Properties to charge admission and other fees as a condition to continued enjoyment by the members and if necessary to open the enjoyment of such properties to a wider public. If the Properties **[are]** returned to the Association, all rights of the members hereunder shall be restored; and

The existing language in section 3 (a) for borrowing against the common properties could result in loss of the common property to private investors by manipulation of the mortgage default provisions. This proposal prohibits borrowing from and mortgaging common properties with private lenders.  
**Note:** At the end of (a) the word "and" refers to Section 3(b), (c), and (d) which are not being changed.

\* \* \*

**ARTICLE V  
COVENANT FOR MAINTENANCE ASSESSMENTS**

**Section 1 a: [Whenever a lot is owned by a corporation, limited liability company, partnership, trust, or other entity the Association may require a personal guarantee from the person designated for membership and spouse, if any, as a condition of granting membership privileges. The guarantee shall obligate the guarantor to be financially responsible for all assessments and other obligations that may become owing to the Association or which may become a lien on the lot. The Association may require proof of financial responsibility from the guarantor and prescribe the form of written guarantee, which may require the guarantor to waive presentment, notice of dishonor and protest, and agree that the Association may alter, compromise, accelerate, extend, change the time, manner of terms of payment, or forbear to collect said indebtedness, with or without notice to the guarantor, without affecting the obligation of the guarantor.]**

This section will require a natural person to personally guarantee payment of assessments and the obligations where a corporation or other artificial entity is the owner.

\* \* \*

**Section 9. *Effect of Non-Payment of Assessment [or other financial obligation; foreclosure of lien.* [In the event any assessment is not paid on the due date, such assessment shall be delinquent. Further, in the event the owner shall fail to pay any taxes or other obligation when due, the Association may pay same and any such payment shall be both the personal obligation of the owner and a continuing lien on the property, and shall be immediately due and payable. The Association shall then have the right to pursue any remedy at law or in equity including injunctive relief, receivership, damages, and foreclosure of its lien. The Association shall also have the right to recover its costs and actual reasonable attorneys fees which shall also be a lien on the property. In addition to any other remedy the Association may have, it may foreclose its lien in the same manner as a mortgage containing a power of sale in accordance with the statutes in such case made and**

This section will give the Association a method to foreclose our lien on lots which are delinquent in assessments and to re-coup expenses involved in that process.

provided, and to seek a deficiency judgment should the amount bid at the foreclosure sale be insufficient to satisfy the amount due the Association. Alternatively, the Association may seek to foreclose its lien by judicial action. In any event, proceeds of said sale shall be applied in the following order: (a) the expense of sale, including actual reasonable attorneys fees in the event the Association uses an attorney, and (b) all sums due the Association. Any surplus, after payment of any taxes or prior liens or charges against the land shall be paid to the owner.] ~~The personal obligation of the Owner; the Lien, Remedies of Association. If the assessments are not paid on the due date (being the dates specified in Section 7 hereof), then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection and filing Complaint in such action and in the event that Judgment is obtained, such Judgment shall include interest on the total amount as above provided and reasonable attorney's fee to be fixed by the court together with the costs of the action.~~

\* \* \*

**ARTICLE VI  
ARCHITECTURAL CONTROL COMMITTEE**

**Section 1. Review by Committee.** No building, septic tank, well, signs, dock, pier, incinerator, trash or garbage receptacle, fence, wall or other structure shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted **[(in such form as may be prescribed from time to time)]** to and approved in writing by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. **[The Board and an Architectural Control Committee so appointed by the Board shall exercise its authority under this section pursuant to the building and use restrictions in Article VII below which building and use limitations may be modified or supplemented from time to time by the Board, which shall also have the power to adopt reasonable standards and to impose reasonable restrictions in connection with any permitted use, activity, or structure. Provided, that any change to an existing provision shall have prospective effect only.]** In the event said Board or its designated committee fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, ~~or in any event, if no suit to enjoin the addition, alteration or change has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with.~~ This Article shall not apply to Developer on any lots owned by it for the purposes of sale or resale. **[In any event, the Board of Directors may file suit to (a) enjoin the commencement, continuation, maintenance, or alteration of a project which does not conform to the building and use limitations or approved plans; (b) enjoin the occupation or use of any building or structure which does not so conform; (c) enjoin any conduct or activity in violation of said limitations; and, (d) to require the removal of any structure or improvement built in violation of the limitations or plans, whether before or after completion.**

The existing language of Articles VI and VII is vague, ambiguous and extremely confining when trying to accommodate changes in technology and construction practices and meet the challenges of growth in the future. This first proposal maintains the present Building & Use Limitations of Article VII but authorizes the Board of Directors to adopt when necessary reasonable modifications that recognize modern contingencies. This proposal also permits a suit for failure to comply with the Restrictive Covenants.

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