

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR DEER CREEK**

This Declaration is made and executed this 20th day of June, 1995 by PREMIER DEVELOPMENT, Inc. a Wisconsin corporation, hereinafter referred to as "Developer".

WHEREAS, Developer is the owner of the Real Property described on the recorded final plat of DEER CREEK, hereinafter referred to as the "property", Waukesha County, Wisconsin, legal description of which is attached hereto marked exhibit A and made a part hereof.

WHEREAS, the Developer intends to have single-family residences constructed on the following lots of property:

Lots 1-22 Block 1; Lots 1-8 Block 2 and Lots 1-6 Block 3

WHEREAS the Developer's purpose of this Declaration is to insure the best use and most appropriate development and improvement of each lot within the property; to protect the purchasers of lots against such use of surrounding lots as will detract from the residential value of their property; to preserve, as far as is practicable, the natural beauty of the Property; to guard against the haphazard and inharmonious improvement of the lots and erection thereon of unattractive or poorly designed or poorly proportioned structures; to obtain harmonious and attractive use of material and color schemes; to encourage and secure the construction within the Property of attractive homes with appropriate locations thereof on the lots; to secure and maintain proper setbacks from streets and adequate open spaces between structures; and, in general to comprehensively provide for a high type and quality of development in the Property and thereby to preserve and enhance the values or investments made by purchasers of the lots therein.

NOW, THEREFORE, Developer hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following covenants, conditions, and restrictions which shall run with the real property and be binding on all parties having any right, title of interest in the described properties or any part thereof, their heirs, representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

For the purpose of this Declaration, the following terms shall have the meanings herein ascribed to them:

Section 1. "Declaration" shall mean the covenants, conditions and restrictions and all other provisions as set forth in this document, as they may be amended from time to time.

Section 2. "Developer" shall mean PREMIER DEVELOPMENT, INC., a Wisconsin corporation and its successors and assigns. The rights and obligations of Developer as set forth herein, shall cease when it no longer owns any lots.

Section 3. "Living Unit" shall mean and refer to any portion of a residential building situated upon the Properties designed and intended for use and occupancy as a residence by a single family excluding garage.

Section 4. "Lot" shall mean and refer to that which is set forth as a lot in the recorded plat for this subdivision.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers and vendees, but excluding those having such interest merely as security for the performance of an obligation, and excluding those having a lien upon the Property by provision or operation of law.

Section 6. "Properties" shall mean and refer to the real property herein described on the recorded plat for DEER CREEK.

Section 7. "City" shall mean and refer to the City of Muskego, Waukesha County, Wisconsin.

Section 8. "Minimum Square Footage" shall mean the total amount of finished living area above front yard grade exclusive of garages, breezeways, porches, basements and unfinished attics.

Section 9. "Ranch" indicates a one-story residence.

Section 10. "Multi-Level" indicates a residence having multi-levels above or below the finished yard grade.

Section 11. "One and a half story" indicates a residence that contains one story and a loft.

Section 12. "Two story" indicates a residence having two completely finished stories above grade.

## **ARTICLE II ARCHITECTURAL CONTROL**

Section 1. Front yard setbacks shall not exceed the minimum setback required by the City zoning ordinances. Special exception may be granted by Developer at time of architectural control review as stated in subsequent provision. All other setbacks, height restrictions and locations of all structures shall be regulated by the zoning ordinances of the City of Muskego.

Section 2. In order to maintain harmony in appearance, and as a protection against undesirable and inharmonious construction of buildings and improvements on all lots in the subdivision, the right to refuse approval of any plans and specifications and/or plot plan is hereby given to the Developer. In passing upon such plans and specifications and/or plot plans, the Developer shall have the right to take into consideration the suitability of the proposed building or other structure. Final approval as to choice of exterior materials and exterior colors shall reside with the Developer. Further, the Developer may request modifications as it may deem necessary to carry out the purpose of this section. No building, main or accessory fence, wall, pool, or other improvement shall be erected, placed or altered on any lot in the subdivision until the construction plans, specifications and a plan showing the location of the proposed structure or improvement shall have been approved by the Developer, or its duly appointed agents, as to: Employment and quality of material, colors, harmony of exterior design with existing structures, and as to location on the proposed site, front, rear, and side setbacks, and as to topography and finish grade elevations. A duplicate copy of the above plans and specifications as submitted and approved shall be provided for the permanent file of the Developer. At the time the developer transfers the outlot(s) in a particular phase of Deer Creek to

the Deer Creek Homeowners, the right to grant or refuse approval as set forth above shall also be transferred to said association.”

### **ARTICLE III MAINTENANCE AND USE RESTRICTIONS**

**Section 1. Property Uses.** No Lot or Living Unit shall be used except for residential purposes and all uses and construction on lots shall comply with all City codes and ordinances.

**Section 2. No Noxious Activity.** No noxious or offensive activities shall be conducted on any Lot or Living Unit, nor shall anything be done thereon which may be or become an annoyance to other owners as per the applicable City ordinances.

**Section 3. Garbage and Refuse Removal.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. No refuse containers shall be placed on the front side of the house except on designated pick up days.

**Section 4. No Animals Except Pets.** No fowl, animals or insects shall be kept on any Living Unit or Lot except dogs, cats and other common household pets, provided that they are not kept, bred or maintained for any commercial purposes.

**Section 5. Prohibited Structures.** No structures of a temporary character, trailer, basement, tent, shack, garage, or other building except a permanent residence, shall be used on any Lot at any time as a residence, either temporary or permanently. No unsightly or unlicensed vehicles may be stored on any Lot. No camper, motor home, recreational vehicle, boat, trailer, bus or truck may be stored on the exterior of any home or garage longer than 48 hours per year.

**Section 6. Model and Sales Use.** All use herein notwithstanding, any Living Unit including a garage may be used for a model residence, or for a real estate office with customary development signs during the development period by the Developer, its successors or assigns.

**Section 7. Easements.** No use, including placement of fill, structures or fencing shall be allowed in any drainage or improvement or utility easements. Owner shall check with the City and public utility companies to identify all such easements as they affect their Lot. Further, owners are responsible for the maintenance of all drainage swales as designated on the final plat.

**Section 8. Developer Easement.** The Developer and/or its contractors, utility companies, the City and their representatives, successors and assigns shall have temporary easements as necessary to cross and/or work on or in any of the Lots or the properties to exercise or fulfill their rights or obligations in respects to lots and/or properties.

**Section 9. Cul-de-sac Landscaping Maintenance.** Lots 1-10 Block 1 shall be responsible for maintaining the entrance boulevard landscaping and infrastructure located in the public right of way of Ricco Court. Lot 1 and 10 Block 1 shall be responsible for maintaining the landscaped berm that is located on the landscaping easement that is on these lots.

**Section 10. Owner Responsible for Maintenance of Lot.** The owner shall be responsible for cleaning up all debris that has blown from their building(s) under construction and any mud or dirt on

the roadways caused by said construction of residence. All clean up work shall be completed within 48 hours after receiving a notice from the Developer. Further, the Owner shall keep the Lot and Living Unit in good order, repair and free of all debris. All vegetation shall be maintained in a neat and orderly appearance.

**ARTICLE IV.  
BUILDING, STRUCTURE AND CONSTRUCTION RESTRICTIONS**

**Section 1. House Requirements and Minimum House Size.** All ranches shall have a 6/12 or greater pitch roof. The following are minimum required square footage requirements for a single family residence:

- Ranch            1400 Square feet
- Multi Level:   1250 Square feet above front yard grade  
                    1400 Square feet Total
- 1 1/2 Story:    950 Square feet First Floor  
                    1700 Square feet Total
- 2 Story:        950 Square feet First Floor  
                    1700 Square feet Total

**Section 2. House Garage Size Requirements.** All residences shall have at least a two car attached garage. No garage shall exceed 860 square feet.

**Section 3. Driveways.** All residences shall have a blacktop or concrete driveway. The approach and driveway shall be paved before occupancy, or in the event of winter construction, not later than the following July 1. Owner is responsible for all required permits from the City.

**Section 4. Landscaping.** Owner shall seed or sod front, side and rear yards within three months of completion of house construction, weather permitting. In the event of winter construction, these items shall be done no later than the following July 1. Seed or sod shall be planted and properly protected and watered to produce lawn.

**Section 5. Dog Kennels.** Any dog kennels shall have a poured concrete base with steel fencing and shall be attached to the rear of the house or garage.

**Section 6. Fences.** No fence constructed on a Lot shall have a height of greater than six (6) feet and shall conform with City zoning ordinances.

**Section 7. Antenna.** No antenna shall be higher than six feet above the height of the roof of the home.

**Section 8. Satellite Dishes.** No satellite dish greater than three feet in diameter shall be allowed on the property. Further, all satellite dishes shall not be mounted or attached to the roof or located in the front or side yards of the lots.

**Section 9. Construction of Residence.** The owner shall complete the construction of their single family residence within one year of start date.

Section 10. Public Improvements. Developer hereby warrants that the following public improvements will be installed within the public rights of way and or easement: sanitary sewer, water and storm mains and laterals, street asphalt, electric, phone, cable television and gas.

Section 11. Asphalt Pedestrian/Bike Path. Owners of Lot 8 Block 2 and Lots 1-6 Block 3, are aware that an eight foot asphalt pedestrian/bike path will be installed in the public right of ways or pedestrian/bike path easements as marked on the final plat of Deer Creek. Further, all maintenance of these paths are the responsibility of the owners on whose property they abut.

Section 12. Master Grading Plan. All Owners shall finish grade their Lot in accordance with the master grading plan for Deer creek on file at the building inspection office in City hall. No changes to grading plan shall be approved unless an amendment is approved by the city engineer. Further, the Developer and/or City and or the agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage conditions and the property owner is responsible for the cost of the same.

Section 13. Lamp Posts. Uniform lamp posts specified by the Developer shall be purchased by the Lot Owner from the Developer at the time each lot in the property is acquired. Installation of said lamp post shall be done prior to occupancy by the Lot Owner. Said cost of installation of lamp post shall be borne by Lot Owner. Any replacement of lamp post shall be accomplished by the Lot Owner and only with a lamp post of the same specification, height and appearance as the original lamp post. The replacement shall be placed in the same location as the original lamp post.

Section 14. Mailboxes. Uniform mailboxes specified by the Developer shall be purchase by the lot owners from the Developer at the time each Lot in the Property is acquired. Location of mailboxes shall be in an area designated by the US Post Office. Installation of mailboxes shall be completed when US Post Office grants approval, which normally occurs after fifty percent of the homes are erected. All costs incurred in said installation shall be borne by Lot Owner. Any replacement of mailbox shall be accomplished by the Lot Owner and only with a mailbox of the same design and height. The replacement shall be placed in the same location as the original.

## **ARTICLE V. DEER CREEK HOMEOWNERS ASSOCIATION**

Section 1. The Developer as part of its development of Deer Creek has created and shall in the future dedicate to the Deer Creek Homeowners Association outlots as outlined on the preliminary plat of Deer Creek, and whereas the City of Muskego does not desire to own or maintain the vegetation or detention pond located in these outlots, the Developer, its successors and/or assigns to the properties, are to maintain said items. When the Developer no longer owns any lots in Deer Creek or it elects to proceed with the following in writing, whichever comes first, it shall create an association to be known as the Deer Creek Homeowners Association hereinafter referred to as the "Association" for the purpose of maintaining the detention pond and vegetation located within these outlots, paying the real estate taxes and any assessments to these outlots, and assessing the prorated share of the cost of such improvements or maintenance decided upon, to the individual owners and the collection of assessments therefore. See Article II Section 2 for the terms of transferring architectural control to the association.

The Owner or Owners of each lot in Deer Creek shall be entitled to one (1) vote per lot in the management and operation of the Association. A majority vote shall rule. Each Lot Owner shall be a member of the Association. Such membership shall be appurtenant to and shall pass with the title to each lot in Deer Creek.

Section 2. When the Developer no longer owns any lots in Deer Creek or it elects to proceed with the Association, written notice shall be given to all Lot Owners in Deer Creek calling the initial meeting of said Association, at which meeting the Lot Owners shall elect a president, vice president, secretary and treasurer, approve bylaws, and commence the existence of the Association.

Section 3. The membership of each Lot Owner in the Association shall be subject to the following:

A. An annual assessment may be levied by the Association for the purpose of defraying in whole or in part the costs incurred by the Association to maintain the detention pond and vegetation located within these outlots and for payment of the real estate taxes for these outlots. Said costs shall include, but not be limited to, payment of real estate taxes, payment of improvements, repair, replacement and additions to the improvements made the cost of labor, equipment, materials, management and supervision thereof.

The Developer shall pay its prorata share of such costs for each Lot it still owns in said subdivision, with the exception that it shall not be assessed on any Lot it owns for improvements, maintenance or additions thereto to which it has not specifically consented.

Such annual assessments shall be levied by the Association as of January 31 for such year and a statement for such amount be mailed to the Owner of each Lot as of such date and be payable on or before March 31 of each year, commencing with the year the Association becomes active.

The assessment as established by the Association shall be set taking into consideration the cost of the current improvements, maintenance and future needs.

B. Special assessment may be levied by the Association for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of capital improvement or maintenance, if consented to by two-thirds (2/3) of the members of the Association. The Developer shall not be assessed for any such improvements for any Lot it owns for which it has not consented to the construction or installation or maintenance thereof. Such special assessments shall be due and payable ninety (90) days after the required affirmative vote of the members of the Association.

C. The annual and/or special assessments prorata share per Lot shall be 1/36 unless the Developer shall not be assessed and if so, the prorata share shall be adjusted accordingly.

D. If the assessment, annual and/or special, is not paid on the date when due, then such assessment shall become delinquent and shall together with such interest thereon and the cost of collection thereof as hereinafter provided, become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. Such assessment shall also be the personal obligation of the owner of the lot at the time said assessment becomes delinquent and shall remain the personal obligation of said owner for the statutory period.

If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of nine percent (9%) per annum and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property and there shall be added to the amount of such assessment interest, all court costs, attorney fees and related costs.

The Association shall upon demand at any time furnish to any Lot Owner as certificate in writing signed by an officer of the Association setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of the payment of any and all assessments therein stated to have been paid.

In the event the City of Muskego shall at any future date assume the maintenance of the vegetation and/or the detention basin within the outlots or other items either at the request of the Association or because said Association is not maintaining said vegetation, detention basin or other items to the satisfaction of the City of Muskego, the City of Muskego shall have the power and authority to levy and collect a special assessment annually from each lot in the subdivision for the cost of the maintenance of the improvements, vegetation, detention basin and other items within Deer Creek. For these purposes, the subdivision shall constitute an assessment district and there shall be no limitations as to the amount of these assessments, provided they shall not exceed the actual cost thereof.

Section 4. The Developer may develop Deer Creek in phases. As the phases are developed the Outlots may be enlarged or additional Outlots may be created. The Developer retains the right, in the future, to dedicate the enlargement of an Outlot or additional Outlots of other phases of Deer Creek to the association. Upon such dedication the association shall have the same rights and obligations as to the newly dedicated enlargement of an Outlot or additional Outlots as it has to the Outlots first dedicated, and the owner or owners of each lot in the phase of Deer Creek which had said enlargement of an Outlot or additional Outlots dedicated to the association, shall become a member of the association and shall have the rights and obligations of a member of the association as set forth herein. Whenever the number of members shall change, the prorata share of assessments per lot shall change.

## **ARTICLE VI. GENERAL PROVISIONS**

Section 1. Enforcement. Any Owner shall have the right to enforce, by any proceeding at law or in equity, or both, all of the terms and provisions of Article III and Article IV of this declaration. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or recover damages.

Section 2. Severability. Invalidation of any of these covenants, conditions and restrictions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

Section 3. Amendments. These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years. From that date these covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

In witness whereof, the undersigned, being the declarant herein have caused these presents to be executed this 20th day of June, 1995.

PREMIER DEVELOPMENT, INC.

By: \_\_\_\_\_  
Gary A. Postma, President

By: \_\_\_\_\_  
Clark Tabbert, Secretary

STATE OF WISCONSIN)

COUNTY OF WAUKESHA)

Personally came before me this 20th day of June, 1995, Gary A. Postma, President, and Clark Tabbert, Secretary of the above named corporation, to be known to be the persons who executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

\_\_\_\_\_  
Notary Public Wisconsin  
My commission expires: \_\_\_\_\_

This instrument was drafted by Attorney Bernard J. Westfahl.

**DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR DEER CREEK ADDITION # 1**

This Declaration is made and executed this 4th day of November, 1997 by PREMIER DEVELOPMENT, Inc. a Wisconsin corporation, hereinafter referred to as "Developer".

WHEREAS, Developer is the owner of the Real Property described on the recorded final plat of DEER CREEK ADDITION #1, hereinafter referred to as the Property, Waukesha County, Wisconsin, legal description of which is attached hereto marked exhibit A and made a part hereof.

WHEREAS, the Developer intends to have single-family residences constructed on the following lots of property:

Lots 23 - 46 Block 1; Lots 7 - 9 Block 3 and Lots 1 - 9 Block 4

WHEREAS the Developer's purpose of this Declaration is to insure the best use and most appropriate development and improvement of each lot within the property; to protect the purchasers of lots against such use of surrounding lots as will detract from the residential value of their property; to preserve, as far as is practicable, the natural beauty of the Property; to guard against the haphazard and inharmonious improvement of the lots and erection thereon of unattractive or poorly designed or poorly proportioned structures; to obtain harmonious and attractive use of material and color schemes; to encourage and secure the construction within the Property of attractive homes with appropriate locations thereof on the lots; to secure and maintain proper setbacks from streets and adequate open spaces between structures; and, in general to comprehensively provide for a high type and quality of development in the Property and thereby to preserve and enhance the values or investments made by purchasers of the lots therein.

NOW, THEREFORE, Developer hereby declares that all of the property described above shall be held, sold and conveyed subject to the following covenants, conditions, and restrictions which shall run with the real property and be binding on all parties having any right, title of interest in the described properties or any part thereof, their heirs, representatives, successors and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

For the purpose of this Declaration, the following terms shall have the meanings herein ascribed to them:

Section 1. "Declaration" shall mean the covenants, conditions and restrictions and all other provisions as set forth in this document, as they may be amended from time to time.

Section 2. "Developer" shall mean PREMIER DEVELOPMENT, INC., a Wisconsin corporation and its successors and assigns. The rights and obligations of Developer as set forth herein, shall cease when it no longer owns any lots.

Section 3. "Living Unit" shall mean and refer to any portion of a residential building situated upon the Property designed and intended for use and occupancy as a residence by a single family excluding garage.

Section 4. "Lot" shall mean and refer to that which is set forth as a lot in the recorded plat for Deer Creek Addition #1.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Property, including contract sellers and vendees, but excluding those having such interest merely as security for the performance of an obligation, and excluding those having a lien upon the Property by provision or operation of law.

Section 6. "Property" shall mean and refer to the real property herein described on the recorded plat for DEER CREEK ADDITION # 1.

Section 7. "City" shall mean and refer to the City of Muskego, Waukesha County, Wisconsin.

Section 8. "Minimum Square Footage" shall mean the total amount of finished living area above front yard grade exclusive of garages, breezeways, porches, basements and unfinished attics.

Section 9. "Ranch" indicates a one-story residence.

Section 10. "Multi-Level" indicates a residence having multi-levels above or below the finished yard grade.

Section 11. "One and a half story" indicates a residence that contains one story and a loft.

Section 12. Two story" indicates a residence having two completely finished stories above grade.

## **ARTICLE II ARCHITECTURAL CONTROL**

Section 1. Front yard setbacks shall not exceed the minimum setback required by the City zoning ordinances. All other setbacks, offsets, height restrictions and locations of all structures shall be regulated by the zoning ordinances of the City of Muskego, except Lots 35 and 36 Block 1 shall have a minimum side yards of 10 feet and 20 feet.

Section 2. In order to maintain harmony in appearance, and as a protection against undesirable and inharmonious construction of buildings and improvements on all lots in the subdivision, the right to refuse approval of any plans and specifications and/or plot plan is hereby given to the Developer. In passing upon such plans and specifications and/or plot plans, the Developer shall have the right to take into consideration the suitability of the proposed building or other structure. Final approval as to choice of exterior materials and exterior colors shall reside with the Developer. Further, the Developer may request modifications as it may deem necessary to carry out the purpose of this section. No building, main or accessory fence, wall, pool, or other improvement shall be erected, placed or altered on any lot in the subdivision until the construction plans, specifications and a plan showing the location of the proposed structure or improvement shall have been approved by the Developer, or its duly appointed agents, as to: Employment and quality of material, colors, harmony of exterior design with existing structures, and as to location on the proposed site, front, rear, and side setbacks, and as to topography and finish grade elevations. A duplicate copy of the above plans and specifications as submitted and approved shall be provided for the permanent file of the Developer. At the time the developer transfers the outlot(s) in a particular phase of Deer Creek to

the Deer Creek Homeowners, the right to grant or refuse approval as set forth above shall also be transferred to said association."

### **ARTICLE III MAINTENANCE AND USE RESTRICTIONS**

**Section 1. Property Uses.** No Lot or Living Unit shall be used except for residential purposes and all uses and construction on lots shall comply with all City codes and ordinances.

**Section 2. No Noxious Activity.** No noxious or offensive activities shall be conducted on any Lot or Living Unit, nor shall anything be done thereon which may be or become an annoyance to other owners as per the applicable City ordinances.

**Section 3. Garbage and Refuse Removal.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. No refuse containers shall be placed on the front side of the house except on designated pick up days.

**Section 4. No Animals Except Pets.** No fowl, animals or insects shall be kept on any Living Unit or Lot except dogs, cats and other common household pets, provided that they are not kept, bred or maintained for any commercial purposes.

**Section 5. Prohibited Structures.** No structures of a temporary character, trailer, basement, tent, shack, garage, or other building except a permanent residence, shall be used on any Lot at any time as a residence, either temporary or permanently. No unsightly or unlicensed vehicles may be stored on any Lot. No camper, motor home, recreational vehicle, boat, trailer, bus or truck may be stored on the exterior of any home or garage longer than 48 hours per year.

**Section 6. Model and Sales Use.** All use herein notwithstanding, any Living Unit including a garage may be used for a model residence, or for a real estate office with customary development signs during the development period by the Developer, its successors or assigns.

**Section 7. Easements.** No use, including placement of fill, structures or fencing shall be allowed in any drainage or improvement or utility easements. Owner shall check with the City and public utility companies to identify all such easements as they affect their Lot. Further, owners are responsible for the maintenance of all drainage swales as designated on the final plat.

**Section 8. Developer Easement.** The Developer and/or its contractors, utility companies, the City and their representatives, successors and assigns shall have temporary easements as necessary to cross and/or work on or in any of the Lots or the property to exercise or fulfill their rights or obligations in respects to lots and/or property.

**Section 9. Landscaping Maintenance.** Lots 34-36 Block 1 shall be responsible for maintaining the landscaped berm that is located on the landscaping easement that is on these lots.

**Section 10. Owner Responsible for Maintenance of Lot.** The owner shall be responsible for cleaning up all debris that has blown from their building(s) under construction and any mud or dirt on the roadways caused by said construction of residence. All clean up work shall be completed within 48 hours after receiving a notice from the Developer. Further, the Owner shall keep the Lot and

Living Unit in good order, repair and free of all debris. All vegetation shall be maintained in a neat and orderly appearance.

**ARTICLE IV.  
BUILDING, STRUCTURE AND CONSTRUCTION RESTRICTIONS**

**Section 1. House Requirements and Minimum House Size.** All ranches shall have a 6/12 or greater pitch roof. The following are minimum required square footage requirements for a single family residence:

Ranch	1400 Square feet
Multi Level:	1250 Square feet above front yard grade 1400 Square feet Total
1 1/2 Story:	950 Square feet First Floor 1700 Square feet Total
2 Story:	950 Square feet First Floor 1700 Square feet Total

**Section 2. House Garage Size Requirements.** All residences shall have at least a two car attached garage. No garage shall exceed 860 square feet.

**Section 3. Driveways.** All residences shall have a blacktop or concrete driveway. The approach and driveway shall be paved before occupancy, or in the event of winter construction, not later than the following July 1. Owner is responsible for all required permits from the City. Further, Lots 7-9 Block 3 shall construct a turnaround in their driveway.

**Section 4. Landscaping.** Owner shall seed or sod front, side and rear yards within three months of completion of house construction, weather permitting. In the event of winter construction, these items shall be done no later than the following July 1. Seed or sod shall be planted and properly protected and watered to produce lawn.

**Section 5. Dog Kennels.** Any dog kennels shall have a poured concrete base with steel fencing and shall be attached to the rear of the house or garage.

**Section 6. Fences.** No fence constructed on a Lot shall have a height of greater than six (6) feet and shall conform with City zoning ordinances.

**Section 7. Antenna.** No antenna shall be higher than six feet above the height of the roof of the home.

**Section 8. Satellite Dishes.** No satellite dish greater than three feet in diameter shall be allowed on the property. Further, all satellite dishes shall not be mounted or attached to the roof or located in the front or side yards of the lots.

**Section 9. Construction of Residence.** The owner shall complete the construction of their single family residence within one year of start date.

Section 10. Public Improvements. Developer hereby warrants that the following public improvements will be installed within the public rights of way and or easement: sanitary sewer, water and storm mains and laterals, street asphalt, electric, phone, and gas.

Section 11. Asphalt Pedestrian/Bike Path. Owners of Lots 7 - 9 Block 3, and Lots 35 and 36 Block 1, are aware that an eight foot asphalt pedestrian/bike path will be installed in the public right of ways or outlot as marked on the final plat of Deer Creek Addition # 1. Further, all maintenance of these paths are the responsibility of the owners on whose property they abut.

Section 12. Master Grading Plan. All Owners shall finish grade their Lot in accordance with the master grading plan for Deer Creek Addition #1 on file at the building inspection office in City hall. No changes to grading plan shall be approved unless an amendment is approved by the city engineer. Further, the Developer and/or City and or the agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage conditions and the property owner is responsible for the cost of the same.

Section 13. Lamp Posts. Uniform lamp posts specified by the Developer shall be purchased by the Lot Owner from the Developer at the time each lot in the property is acquired. Installation of said lamp post shall be done prior to occupancy by the Lot Owner. Said cost of installation of lamp post shall be borne by Lot Owner. Any replacement of lamp post shall be accomplished by the Lot Owner and only with a lamp post of the same specification, height and appearance as the original lamp post. The replacement shall be placed in the same location as the original lamp post.

Section 14. Mailboxes. Uniform mailboxes specified by the Developer shall be purchase by the lot owners from the Developer at the time each Lot in the Property is acquired. Location of mailboxes shall be in an area designated by the US Post Office. Installation of mailboxes shall be completed when US Post Office grants approval, which normally occurs after fifty percent of the homes are erected. All costs incurred in said installation shall be borne by Lot Owner. Any replacement of mailbox shall be accomplished by the Lot Owner and only with a mailbox of the same design and height. The replacement shall be placed in the same location as the original.

#### **ARTICLE V. DEER CREEK HOMEOWNERS ASSOCIATION**

Section 1. The Developer as part of its development of Deer Creek and Deer Creek Addition #1 has created and shall in the future dedicate to the Deer Creek Homeowners Association outlots as outlined on the preliminary plat of Deer Creek, and whereas the City of Muskego does not desire to own or maintain the vegetation or detention pond located in these outlots, the Developer, its successors and/or assigns to the property, are to maintain said items. When the Developer no longer owns any lots in Deer Creek or it elects to proceed with the following in writing, whichever comes first, it shall create an association to be known as the Deer Creek Homeowners Association hereinafter referred to as the "Association" for the purpose of maintaining the detention pond and vegetation located within these outlots, paying the real estate taxes and any assessments to these outlots, and assessing the prorated share of the cost of such improvements or maintenance decided upon, to the individual owners and the collection of assessments therefore. See Article II Section 2 for the terms of transferring architectural control to the association.

The Owner or Owners of each lot in Deer Creek and Deer Creek Addition #1 shall be entitled to one (1) vote per lot in the management and operation of the Association. After outlots in its development have been dedicated to said association, a majority vote shall rule. Each Lot Owner shall be a

member of the Association. Such membership shall be appurtenant to and shall pass with the title to each lot in Deer Creek and Deer Creek Addition # 1.

**Section 2.** When the Developer no longer owns any lots in Deer Creek Addition # 1 or it elects to proceed with the Association, written notice shall be given to all Lot Owners in Deer Creek Addition # 1 calling the initial meeting of said Association, at which meeting the Lot Owners shall elect a president, vice president, secretary and treasurer, approve bylaws, and commence the existence of the Association, or if Association already exists and is functioning for Deer Creek, then written notice shall be made to all lot owners of Deer Creek Addition #1 and to the Association that the developer is dedicating the outlots of Deer Creek Addition #1 to the Association and that the lot owners of Deer Creek Addition #1 simultaneously therewith shall become members of the Association.

**Section 3.** The membership of each Lot Owner in the Association shall be subject to the following:

**A.** An annual assessment may be levied by the Association for the purpose of defraying in whole or in part the costs incurred by the Association to maintain the detention pond and vegetation located within these outlots and for payment of the real estate taxes for these outlots. Said costs shall include, but not be limited to, payment of real estate taxes, payment of improvements, repair, replacement and additions to the improvements made the cost of labor, equipment, materials, management and supervision thereof.

The Developer shall pay its prorata share of such costs for each Lot it still owns in said subdivision, with the exception that it shall not be assessed on any Lot it owns for improvements, maintenance or additions thereto to which it has not specifically consented.

Such annual assessments shall be levied by the Association as of January 31 for such year and a statement for such amount be mailed to the Owner of each Lot as of such date and be payable on or before March 31 of each year, commencing with the year the Association becomes active.

The assessment as established by the Association shall be set taking into consideration the cost of the current improvements, maintenance and future needs.

**B.** Special assessment may be levied by the Association for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of capital improvement or maintenance, if consented to by two-thirds (2/3) of the members of the Association. The Developer shall not be assessed for any such improvements for any Lot it owns for which it has not consented to the construction or installation or maintenance thereof. Such special assessments shall be due and payable ninety (90) days after the required affirmative vote of the members of the Association.

**C.** The annual and/or special assessments prorata share per Lot shall be 1/36 unless the Developer shall not be assessed and if so, the prorata share shall be adjusted accordingly.

**D.** If the assessment, annual and/or special, is not paid on the date when due, then such assessment shall become delinquent and shall together with such interest thereon and the cost of collection thereof as hereinafter provided, become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. Such assessment shall also be the personal obligation of the owner of the

lot at the time said assessment becomes delinquent and shall remain the personal obligation of said owner for the statutory period.

If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of nine percent (9%) per annum and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property and there shall be added to the amount of such assessment interest, all court costs, attorney fees and related costs.

The Association shall upon demand at any time furnish to any Lot Owner a certificate in writing signed by an officer of the Association setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of the payment of any and all assessments therein stated to have been paid.

In the event the City of Muskego shall at any future date assume the maintenance of the vegetation and/or the detention basin within the outlots or other items either at the request of the Association or because said Association is not maintaining said vegetation, detention basin or other items to the satisfaction of the City of Muskego, the City of Muskego shall have the power and authority to levy and collect a special assessment annually from each lot in the subdivision for the cost of the maintenance of the improvements, vegetation, detention basin and other items within Deer Creek and Deer Creek Addition # 1. For these purposes, the subdivision shall constitute an assessment district and there shall be no limitations as to the amount of these assessments, provided they shall not exceed the actual cost thereof.

Section 4. The Developer may develop Deer Creek in phases such as Deer Creek Addition #1. As the phases are developed the Outlots may be enlarged or additional Outlots may be created. The Developer retains the right, in the future, to dedicate the enlargement of an Outlot or additional Outlots of other phases of Deer Creek to the association. Upon such dedication the association shall have the same rights and obligations as to the newly dedicated enlargement of an Outlot or additional Outlots as it has to the Outlots first dedicated, and the owner or owners of each lot in the phase of Deer Creek Addition # 1 which had said enlargement of an Outlot or additional Outlots dedicated to the association, shall become a member of the association and shall have the rights and obligations of a member of the association as set forth herein. Whenever the number of members shall change, the prorata share of assessments per lot shall change.

## **ARTICLE VI. GENERAL PROVISIONS**

Section 1. Enforcement. Any Owner shall have the right to enforce, by any proceeding at law or in equity, or both, all of the terms and provisions of Article III and Article IV of this declaration. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or recover damages.

Section 2. Severability. Invalidation of any of these covenants, conditions and restrictions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

Section 3. Amendments. These covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty years. From that date these covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

In witness whereof, the undersigned, being the declarant herein have caused these presents to be executed this 4th day of November, 1997.

PREMIER DEVELOPMENT, INC.

By: *Clark Tabbert*  
Clark Tabbert, President

By: *Keith L. Lillquist*  
Keith L. Lillquist, Vice President

STATE OF WISCONSIN)

COUNTY OF WAUKESHA)

Personally came before me this <sup>7<sup>TH</sup></sup> 4th day of November, 1997, Clark Tabbert, President, and Keith L. Lillquist, Vice President of the above named corporation, to be known to be the persons who executed the foregoing instrument as such officers as the deed of said corporation, by its authority.

*Jally A. Swell*  
Notary Public Wisconsin  
My commission expires: 7-1-01

This instrument was drafted by Attorney Bernard J. Westfahl.

# EXHIBIT A

## SURVEYOR'S CERTIFICATE

I, Gerald E. Casey, Registered Land Surveyor, hereby certify:

That I have surveyed, divided and mapped a part of the Southeast 1/4, Southwest 1/4 and Northwest 1/4 of the Southwest 1/4 of Section 10, Town 5 North, Range 20 East, in the City of Muskego, Waukesha County, Wisconsin, which is bounded and described as follows: Commencing at the Southwest corner of said Southwest 1/4; thence N 01°13'04" W along the West line of said Southwest 1/4, 350.89 feet to the place of beginning of the lands to be described; thence continuing N 01°13'04" W along said West line, 1184.34 feet; thence N 88°46'56" E, 190.10 feet; thence N 01°13'04" W, 100.00 feet; thence N 88°46'54" E, 1110.93 feet to the West Right-of-Way of Parkland Drive; thence S 01°14'37" E along said Right-of-Way, 293.29 feet; thence N 88°19'32" E, 60.00 feet; thence N 88°09'10" E, 650.59 feet; S 20°18'39" E, 241.74 feet; N 89°54'48" W, 394.81 feet; S 41°35'02" W, 296.72 feet; thence S 88°13'35" W, 129.13 feet to the East Right-of-Way of Parkland Drive; thence N 01°46'25" W along said Right-of-Way, 431.30 feet; thence S 88°19'32" W, 60.00 feet to the West Right-of-Way of Parkland Drive; thence S 01°46'25" E along said Right-of-Way, 427.12 feet; thence S 87°32'42" W, 140.25 feet; thence S 79°12'37" W, 127.07 feet; thence S 74°08'49" W, 248.14 feet; thence S 64°59'40" W, 79.25 feet; thence S 70°00'48" W, 467.33 feet; thence S 30°29'15" W, 244.12 feet; thence S 51°58'53" W, 145.38 feet; thence S 88°46'53" W, 40.00 feet to the place of beginning. Said lands containing 31.208 acres.

That I have made such survey, land division and plat by the direction of PREMIER DEVELOPMENT, INC., owners of said land.

That such map is a correct representation of all the exterior boundaries of the lands surveyed and the subdivision thereof made.

That I have fully complied with the provisions of Chapter 236 of the Wisconsin State Statutes and the subdivision regulations of the City of Muskego in surveying, dividing and mapping of the same.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Gerald E. Casey  
Registered Land Surveyor S-1329

