

DECLARATION
OF
RESTRICTIONS

2582492

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

08-10-2000 3:50 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

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12720 W. NORTH AVE - B
BROOKFIELD WI 53005
Pd 24/8

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STATE OF WISCONSIN
COUNTY OF WAUKESHA--REGISTER OF DEEDS

CERTIFICATE NO. 11954
THE UNDERSIGNED HEREBY CERTIFIES THAT THIS IS A
TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE OR
RECORD IN THE REGISTER OF DEEDS OFFICE.
WITNESS MY HAND AND SEAL.

8-11-2000

DATE

Michael Hasslinger
MICHAEL J. HASSLINGER
REGISTER OF DEEDS

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**DECLARATION OF RESTRICTIONS
FOR
QUIETWOOD CREEK**

KNOW ALL PERSONS BY THESE PRESENTS; that **QUIETWOOD CREEK LLC** is a limited liability corporation duly organized and existing under and by the virtue of the State of Wisconsin. (herein referred to as "Developer", which terms shall also include the duly authorized agent to Developer). Developer is the owner of the premises described as follows (herein referred to as "QUIETWOOD CREEK").

QUIETWOOD CREEK

Being a part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section 3, and the Northeast Quarter (NE 1/4) and Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4), and the Northeast Quarter (NE 1/4) and Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section 10, Town 5 North, Range 20 East, City of Muskego, Waukesha County, Wisconsin.

Developer, intending to establish a general plan for the use, occupancy and enjoyment of Quietwood Creek does hereby declare that, for the mutual benefit of present and future owners, Quietwood Creek shall be subject to the following restrictions.

1. **General Applicability** Unless specifically stated otherwise within this Declaration, all of the restrictions stated in this Declaration are applicable to all lots 1-142 of the Plat of Quietwood Creek.

2. **Building Restrictions** The following restrictions are applicable to all single-family lots:
 - a. Only one 1-story, 1 1/2 story, 2 story, split-level or bi-level single-family residential building and attached garage may be erected per lot.
 - b. The minimum living area of a 1-story home shall be 1600 square feet.
 - c. The minimum living area of the first floor of a 1 1/2-story home shall be 1100 square feet.
 - d. The minimum living area of a 2-story home shall be 1100 square feet on the first floor, and 1900 square feet total.
 - e. The minimum living area of a split-level or bi-level home shall be 1300 square feet total on the upper two levels.
 - f. Garages must be attached to the home directly, by breezeway, or in the basement of the home, and must be constructed at the same time as the home. The maximum size of any garage shall be 900 square feet.
 - g. The house, garage and paved driveways to the garage must be completed within one year after the first start of construction.
 - h. Minimum setbacks shall be 30 feet from the front lot line with side yard

setbacks a minimum of 10 feet on one side, all other sides shall be 15 feet. Rear yard setbacks shall not be less than 20 feet. Corner lots shall have a 30 foot street setback from both streets.

- i. There will be no outside storage of boats, trailers, buses, trucks, RV. campers or other vehicles or items deemed unacceptable by the Developer.
- j. All building plans, including the exterior design of each building, and basic site features such as landscaping, lighting, fences, garden structures, satellite dishes, swimming pools, additions and other temporary or permanent structures which affect the overall aesthetics of the Development, must be approved by the Developer in writing prior to construction, and prior to application for a building permit when one is required.
- k. In lieu of public street lights, one outdoor electric post-mounted lamp with photoelectric controls, must be installed.

3. **Lot Grading** Each lot owner must strictly adhere to and finish grade his lot in accordance with the Master Grading Plan on file in the office of the Subdivider and the office of the City Building Inspector unless a change is approved by the City Engineer. The Subdivider and/or the City and/or the agents, employees or independent contractors shall have the right, but not the responsibility, to enter upon any lot, at any time, for any purpose of inspection, maintenance, correction of any drainage conditions and the property owner is responsible for the cost of the same.

4. **Pond Liability** Storm water retention ponds have been created and are required by the City of Muskego to assist in the removal of sediment and detention of storm water in Quietwood Creek. The storm water retention ponds are not intended to be used for swimming or recreational facilities, and any use of the storm water retention ponds for such use is strictly prohibited. Any person entering into or using the storm water retention ponds for such use is strictly prohibited. Any persons entering into or using the storm water retention ponds either intentionally or accidentally do so at their own risk. By purchase of a Lot in Quietwood Creek, each Owner and its respective successors, assigns, heirs and personal representatives thereby waives, to the fullest extent permitted by law, any and all claims for liability against the City of Muskego, the Developer, the Quietwood Creek Homeowner's Association, and their respective agents, contractors, employees, officers, directors and shareholders, for injury or damage to person or property sustained in or about or resulting from the use or existence of the storm water retention ponds. In addition, each Owner (and its successors, assigns, heirs and personal representatives) agrees to indemnify, defend and hold harmless the City of Muskego, the Developer, the Quietwood Creek Homeowner's Association, and their respective agents, contractors, employees, officers, directors and shareholders, from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature (including attorney's fees), including those arising from any injury or damage to any person

(including death) or property sustained in or about or resulting from the use or existence of the storm water retention ponds.

5. **Business Parcel** Quietwood Creek is part of an Overlay Planned Development District which includes an area north of the residential development which shall initially be known as lot 143 in Quietwood Creek with frontage on Janesville Road which has been conceptually zoned Business (B-3) by the City of Muskego. Owners are hereby put on notice that the Business area may contain future construction of a Business nature that may be approved exclusively by the City of Muskego. No owner shall have the right to object to any such Business use or construction, nor shall any Owner assert the right to claim that it has incurred or will incur a loss or damage as a result thereof.
6. **Parade of Homes** Declarant discloses that Declarant may arrange for the Subdivision or any phase thereof to be included in a "Parade of Homes" or similarly titled event in which members of the public are invited to inspect, at one time, a number of Lots improved by buildings constructed by one or more contractors. Such events may result in temporary periods of significant construction activity, traffic slow downs, and large crowds, and may continue for a period of several weeks. By acceptance of a deed or other conveyance to a Lot, an Owner is deemed to acknowledge the possibility of such event and is deemed to have waived any objection to the issuance of any municipal permits required for such event. Developer is not, however, required to include the Subdivision in any such event, and may base its decision of whether or not to do so on Developer's individual needs.
7. **Owner's Association** An incorporated association of the owners of single family lots in Quietwood Creek is hereby created for the purposes of managing and controlling Common Areas, as defined below, and performing other duties as set forth herein for the common benefit of the Owners. This owner's association will formally be titled Quietwood Creek Homeowner's Association, and it is referred to herein as the Association. The membership of the Association will be comprised of the owners, or the authorized agents of the owners, of lots in the Development. Members of the Association are referred to herein as the Owners.
8. **Management Committee** The Association will be governed by a Board of Directors as referred to herein as the Board. The Board will conduct and manage all of the responsibilities of the Association. The members of the Board will be selected as follows:
 - a. At any time that the Developer owns Fifty Percent (50%) or more of the lots including all future additions to the Development, all three of the Board members will be appointed by the Developer.
 - b. At any time that the Developer owns between Twenty and Fifty Percent (20-50%) of the lots in the Development, including all future additions to the

Development, two members of the Board will be appointed by the Developer, and one member will be chosen according to the procedure stated below.

- c. At any time that the Developer owns between Five and Twenty Percent (5-20%) of the lots in the Development, including all future additions to the Development, one member of the Board will be appointed by the Developer and two members will be chosen according to the procedure below.
- d. At any time that the Developer owns fewer than Five Percent (5%) of the lots in the Development, including all future additions to the Development, all three members of the Board will be chosen according to the procedure stated below.

9. **Election of Committee Members** The initial members of the Committee will be William W. Carity, P. Kenneth Servi, and Kristin N. Carity. The initial members will serve until December 31, 2002.

- a. No later than sixty (60) days before the expiration of any term of the Board members, a notice of the election of Board members will be sent to all Owners. The notice will state the number of board positions that are subject to election, according to the criteria stated in sections 8a, 8b, 8c, and 8d, and will solicit nominations for those positions. The notice will also state the date, time and place for a meeting of the Association, to be held no later than ten (10) days prior to the expiration of any term of the Board members, at which time an election of Board membership will take place.
- b. At the election meeting, the nominations for the Board membership will be announced, and additional nominations may be taken from the floor. Only owners may be nominated for Board membership, except for the initial members named above, who may be re-appointed to successive terms by the Developer, subject to the criteria of sections 8a, 8b, 8c, and 8d.
- c. Each owner is entitled to vote in person or by written proxy in elections for selecting members of the Board. Owners will have one vote for each single family lot owned.
- d. Board membership will be assigned to those Owners receiving the greater number of votes at the meeting.
- e. Except for the initial members, Board members terms will be as specified in the By-Laws of the Association. If any member of the Board dies, resigns, becomes unable to act or is no longer an Owner, the unexpired term of such member must be filled by a special election by the Board Members, or appointment by the Developer, if applicable, at a meeting called as soon as possible after the Board vacancy exists.

10. **Common Area Definition** Wherever used in this Declaration or the By-Laws of the Association, the term Common Area shall include:

- a. All areas within Quietwood Creek which are not owned by any Owner, or which are owned by the Association.
- b. The areas which are generally identified as such on the plat of Quietwood Creek which is attached as Exhibit "B".
- c. Outlots 1-7 in Quietwood Creek.
- d. All lawn and landscaped areas, and any entrance monuments, fencing and lighting, contained within the public right-of-way associated with Quietwood Circle; and all such areas contained within landscaping easements or pedestrian easements within Quietwood Creek.
- e. Any storm water drainage easements contained on private lots within Quietwood Creek.
- f. Any future stages of the development that will be designated as a Common Area by the Association or the Developer.

11. **No Agency for Other Owners** No Owner, other than members of the Board, has any authority to act for the Association or the other Owners, as agent or otherwise to bind the Association or the other Owners to contracts, negotiable instruments or other obligations or undertakings of any kind.

12. **Wetland Buffer** The State of Wisconsin Department of Natural Resources, according to Permit No. 3-SE-99-0230 / 0246 as amended, has required that all lots adjacent to jurisdictional wetlands as shown on the Final Plat of Quietwood Creek shall have a natural unmowed buffer of 25 feet that shall be maintained around the wetland area of the subject lot. This requirement affects lots # 9, 10, 11, 20, 101, 102, 103, 104, 105, 106, and 107 in the plat of Quietwood Creek. An exception to this requirement is lots 109 and 111 which shall maintain a natural unmowed buffer of 12 feet around the wetland area.

13. **Utility Easements** Developer has the right to grant and convey easements to the City or to any public or private utility company or individual party upon, over, through or across those portions of any lot in the Development for purposes of allowing the City, individual party or utility service to any lot or lots or through any portions of the Subdivision or for purposes of facilitating said services within or through the Subdivision. Such easements may be granted by Developer, in its own name and without the consent or approval of any lot Owner, until such time as Developer has conveyed legal title to all lots platted or to be platted in the Subdivision to persons other than a successor - Developer.

14. **Maintenance Easements** Certain lots in Quietwood Creek have or will have storm water drainage or maintenance easements. These easements are within defined boundaries in these lots, and are restricted to only such areas, methods of access and duration as are reasonably required to perform necessary maintenance to the

easements or storm water retention ponds or drainage ways. If a property owner does not perform required maintenance in the easement area, the City of Muskego is authorized but not required to perform said maintenance. The costs and expenses associated with said maintenance shall be entered on the tax roll as a special assessment against the property and collected with any other taxes levied thereon for the year in which the work is completed.

15. **No Waiver of Rights** Any failure of the Association or the Committee to enforce any provisions contained in this Declaration will not be deemed to be a waiver of the rights to do so, or an acquiescence in any subsequent action.

16. **Future Development** The Developer, its successors and assigns have the right to bring within this Declaration future stages of the Development, provided such future stages are adjacent to the existing Development. Any future stages added to this Declaration authorized under this sub-section will be added by recording a Supplemental Declaration of Covenants and Restrictions with respect to the future stages which will extend the provisions of this Declaration to such future stages. Except with respect to increasing the numbers of Owners, such supplementary declaration may not revoke, modify or add to the covenants established by this Declaration.

17. **Amendments** This Declaration may be amended by recording in the office of the Register of Deeds for Waukesha County, Wisconsin, a document to that effect executed by the Developer (so long as it owns any lots) and the owners of at least fifty percent (50%) of all then-existing owners of platted lots in the Development, and their mortgagors, with all signatures duly notarized. After full conveyance of all lots by Developer, such amendments shall be executed by the owners of at least sixty (60%) of all the existing owners of platted lots. Such amendment will become effective only upon recording. Notwithstanding the foregoing provisions of this Section, Developer may amend this Declaration without the consent of any of the lot Owners solely to effect an expansion of Quietwood Creek to include contiguous parcels of real estate as may be acquired by Developer from time to time, or to amend the Declaration for subsequent phases of Quietwood Creek.

18. **Duration of Restrictions** These restrictions will be in force perpetually from the date hereof and will be deemed to run with the land, to bind the owners and their successors and assigns, and be enforceable by any Owner. This Declaration is executed by the Developer's signatures below, and is effective upon recording by the Waukesha County Register of Deeds.

RECEIVED - DEPT OF
FINANCIAL INSTITUTIONS
STATE OF WISCONSIN

2000 JUL 11 AM 10:10

ARTICLES OF INCORPORATION
OF

QUIETWOOD CREEK HOMEOWNERS ASSOCIATION, INC.
(A Nonstock, Non-Profit Corporation)

The undersigned, being a natural person over the age of eighteen (18) years and acting as incorporator of a nonstock nonprofit corporation under the provisions of the Wisconsin Nonstock Corporation Law, Chapter 181 of the Wisconsin Statutes, does hereby adopt the following as Articles of Incorporation of such corporation:

ARTICLE I.

Name

The name of the Corporation shall be Quietwood Creek Homeowners Association, Inc. (the "Association").

ARTICLE II.

Period of Existence

The period of existence of the Association shall be perpetual.

ARTICLE III.

Purposes

The purposes for which this Association is organized are as follows:

A. To serve as an association of owners of real estate and improvements in Quietwood Creek, and any additions thereto (the "Property"), subject to the terms and conditions of the Declaration of Deed Restrictions for the Property recorded in the Office of the Register of Deeds for Waukesha County, Wisconsin, as the same may be amended from time to time (hereinafter referred to as "Deed Restrictions");

B. To serve as a means through which the owners may collectively and efficiently administer, manage, operate and control the Property in accordance with the Deed Restrictions and the By-Laws of the Association; and

C. To engage in lawful activity included in and permitted under the Deed Restrictions within the purposes for which a nonstock, nonprofit corporation may be organized under the Wisconsin Nonstock Corporation Law.

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ARTICLE IV.**Powers**

The Association shall have and exercise all of the powers enumerated in the Wisconsin Nonstock Corporation Law, to the extent not inconsistent with the Deed Restrictions, or the By-Laws, including without limitation, the following:

A. To hire, engage or employ and discharge such persons or entities as it may deem necessary or advisable to assist in the management of its affairs or to properly effectuate the duties and responsibilities of the Association as set forth in the Deed Restrictions;

B. To maintain, repair, replace, reconstruct, operate and protect certain entrance signs, landscaping and other improvement affecting the Property as set forth in the Deed Restrictions;

C. To determine, levy and collect assessments against the owners and use the proceeds thereof in the exercise of its powers and duties, including without limitation, the payment of operating expenses of the Association and the common expenses relating to the maintenance, repair, replacement, reconstruction, operation and protection of the areas described above as set forth in the Deed Restrictions;

D. To enter into contracts on behalf of the owners and act as agent of the owners, with regard to, among other things, common services as required for each separate tract or parcel of land within the Property; utilities and such other matters as may be determined by the members of the Association;

E. To make and amend By-Laws and reasonable rules and regulations governing, among other things, the use and operation of the Property in the manner provided by the Deed Restrictions;

F. To enforce by legal means the provisions of the Deed Restrictions, the By-Laws, assessments and liens, and any rules and regulations governing the use and operation of the Property;

G. To establish and maintain one or more bank accounts for deposit and withdrawal of the funds of the Association; and

H. To do all things necessary or advisable to effectuate the purpose of this Association and the Deed Restrictions.

ARTICLE V.

Members

All owners of land in Quietwood Creek shall be entitled and required to be members of the Association, and membership shall be limited to such owners. The respective rights, qualifications and obligations of membership shall be as set forth in the By-Laws of the Association.

ARTICLE VI.

Principal Office and Registered Agent

The location of the initial principal office of the Association shall be 12720 West North Avenue, Brookfield, Wisconsin 53005 and the initial registered agent at such address shall be William W. Carity.

ARTICLE VII.

Directors

The number of directors of the corporation shall be as fixed in the By-Laws, but in no event shall be less than three. The manner in which directors shall be elected, appointed or removed shall be provided in the By-Laws.

The number of directors constituting the initial Board of Directors shall be three and the names and addresses of the initial directors are:

- | | |
|-------------------|---|
| William W. Carity | 12720 West North Avenue
Brookfield, WI 53005 |
| Kenneth P. Servi | 12720 West North Avenue
Brookfield, WI 53005 |
| Kristin N. Carity | 12720 West North Avenue
Brookfield, WI 53005 |

ARTICLE VIII.**Officers**

The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer. The officers shall be elected, appointed or removed in the manner provided by the By-Laws, and shall have and exercise the powers and duties assigned in the By-Laws.

ARTICLE IX.**Incorporator**

The names and address of the incorporator of this Association is: William W. Carity, 12720 West North Avenue, Brookfield, Wisconsin 53005.

ARTICLE X.**Stock, Dividends, Dissolution**

The Association shall not have or issue shares of stock. No dividend shall ever be paid to members of the Association, and no part of the income, assets or surplus of the Association shall be distributed to its members, directors or officers except upon dissolution of the Association. The Association may pay compensation in reasonable amounts to employees, members, directors or officers for services rendered except as limited in the By-Laws, and may confer benefits upon its members in conformity with its purposes.

In the event of dissolution of the Association, all of the Association's assets, after payment of its liabilities and obligations, shall be distributed to the members of the Association in accordance with the number of lots owned in Quietwood Creek Subdivision.

ARTICLE XI.**Amendment**

These Articles may be amended in the manner provided by law at the time of amendment, as limited by applicable provision in the By-Laws.

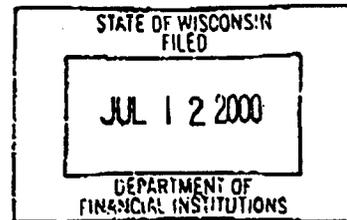
IN WITNESS WHEREOF, the undersigned has executed these Articles in duplicate this 10th day of July, 2000.

William W. Carity
William W. Carity, Incorporator

STATE OF WISCONSIN)
) SS.
MILWAUKEE COUNTY)

Personally came before me this 10th day of July, 2000, the above named William W. Carity to me known to be the person whose name is subscribed to the foregoing Articles of Incorporation and he acknowledged that executed the same for the purposes therein contained.

Kim Shapiro
Notary Public, State of Wisconsin
My Commission *expires 6-03-01*



THIS INSTRUMENT WAS DRAFTED BY AND AFTER RECORDING SHOULD BE RETURNED TO:

George B. Erwin, III
Schmidt, Darling & Erwin
2300 North Mayfair Road
Suite 1175
Milwaukee, WI 53226
(414) 258-4300

artincor.gc

BY-LAWS

OF

QUIETWOOD CREEK HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

Name and Purpose

Pursuant to the Articles of Incorporation of Quietwood Creek Homeowners Association, Inc. and the Declaration of Deed Restrictions for Quietwood Creek recorded in the Office of the Register of Deeds for Waukesha County, Wisconsin (hereinafter "Deed Restrictions"), the following are adopted as the By-Laws of QUIETWOOD CREEK HOMEOWNERS ASSOCIATION, INC. INC. (hereinafter sometimes referred to as the "Association"), which is a non-profit nonstock corporation formed and organized to serve as an association of owners of real estate and improvements located in Quietwood Creek Subdivision, City of Muskego, State of Wisconsin (together, the "Property") subject to the terms and conditions of the Deed Restrictions.

These By-Laws shall be deemed covenants running with the land and shall be binding on the Owners and their heirs, administrators, personal representatives, successors and assigns.

ARTICLE II

Members, Voting and Meetings

2.1 **Members.** The rights and qualifications of the members are as follows:

a. **Defined.** Members of the Association shall be all owners of individual lots in the Subdivision (the "Owners"). Each Owner shall have the number of votes, including fractions thereof, equal to the number of Lots (as that term is defined in the Deed Restrictions) owned by said Owner. If title to any Lot is held by more than one Owner, the membership in the Association related to that Lot shall be shared by such Owners in the same proportionate interests and by the same type of tenancy in which title to the Lot is held. Every Owner upon acquiring title shall automatically become a member of the Association and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease.

b. **Membership List.** The Association shall maintain a current Membership List showing the names of Owners, the address to which notice of meetings of the Association shall be sent, any mortgagee of the Lot, and the person designated to cast the votes.

Only the person so designated shall be entitled to cast a vote in person or by proxy. A designation may be limited in time or may be changed by notice in writing to the Secretary of the Association signed by a majority of the persons having an ownership interest in the Lot.

c. Transfer of Membership. Each membership shall be appurtenant to the separate parcel of land within the Property (the "Lot") upon which it is based and shall be transferred automatically upon conveyance of that Lot. Membership in the Association may not be transferred, except in connection with the transfer of a Lot. Upon transfer of a Lot, the Association shall, as soon as possible thereafter, be given written notice of such transfer, name of the person designated to vote, name and address of mortgagee, if any, and any other information about the transfer which the Association may deem pertinent, and the Association shall make appropriate changes to the Membership List effective as of the date of transfer.

2.2 Quorum and Proxies for Members' Meetings. A quorum for members' meetings shall consist of thirty percent (30%) of the votes in the Association. Votes may be cast in person or by proxy in accordance with designations in the Membership List. Proxies shall be valid only for the particular meeting(s) or time period designated therein, up to a maximum of 180 days, unless sooner revoked, and must be filed with the Secretary before the appointed time of the meeting. If any meeting of members cannot be organized because a quorum is not present, a majority of the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present, without further notice. At such adjourned meeting at which a quorum shall be present or represented any business may be transacted which might have been transacted at the meeting as originally noticed.

2.3 Act by Majority. Unless specifically provided otherwise herein, or under the Wisconsin Nonstock Corporation Law, the act of a majority of votes of the Association present in person or by proxy at any meeting at which a quorum is present shall be the act of the Association.

2.4 Time, Place, Notice and Calling of Members' Meetings. Written notice of all meetings stating the time and place and the purposes for which the meeting is called shall be given by the President or Secretary, unless waived in writing by all Owners, to each member at his address as it appears on the books of the Association and shall be mailed or personally delivered not less than five (5) days or more than sixty (60) days prior to the date of the meeting. Notice of meetings may be waived before or after meetings. Meetings shall be held at such time and place as may be designated by the Board of Directors.

2.5 Annual and Special Meetings. The annual meeting shall be held on the first Tuesday in May of each year for the purpose of electing directors and of transacting any other business authorized to be transacted by the members. Special meetings of the members shall be held whenever called by the President or any two members of the Board of Directors and must be called by such officers upon receipt of a written request signed by members with ten percent (10%) or more of all votes entitled to be cast.

ARTICLE III

Board of Directors

3.1 Initial Board of Directors. The initial Board of Directors shall consist of three (3) persons, appointed by Quietwood Creek, LLC ("Developer"), who need not be members of the Association. The initial Board of Directors shall serve until such time as the members elect a Board of Directors pursuant to Section 3.4 below.

3.2 Number and Qualifications of Directors. The Board of Directors shall consist of three (3) persons, to be classified with respect to the terms for which they severally hold office as set forth in Section 3.4 below. Except for those members of the Board designated by the Developer, each member of the Board of Directors shall be a member of the Association or, in the event that such member of the Association is not a natural person, the appointee of such member of the Association. In no event shall more than one (1) member of the Board of Directors be the owner of, or the appointee of an owner who is not a natural person, of a single lot.

3.3 Powers and Duties of the Board of Directors. The affairs of the Association including management and operation of the Property shall be governed by the Board of Directors. All powers and duties as shall be necessary for the administration of the affairs of the Association shall be exercised by the Board of Directors. Such powers and duties shall be exercised in accordance with the provisions of the Deed Restrictions, the Articles of Incorporation, and these By-Laws.

3.4 Election and Term of Directors. Subject to Section 8 of the Deed Restrictions, at the first annual meeting of the Association, the members shall elect three (3) directors to be classified with respect to the terms for which they hold office by dividing them into two (2) classes as follows:

a. One (1) director whose terms will expire after one (1) year, at the next annual meeting of the Association (Class "A" Directors).

b. Two (2) directors whose terms will expire after two (2) years, at the second annual meeting of the Association after their election (Class "B" Directors).

The successors to the class of directors whose terms expire as set forth above shall be elected to hold office for a term of two (2) years or until their successors are duly elected and qualified, or until any of said directors shall have been removed in the manner hereinafter provided, so that the term of one class of directors shall expire in each year.

3.5 Vacancies on Board. Subject to the rights of the Developer under the Deed Restrictions, vacancies on the Board of Directors caused by any reason other than the removal of a director by a vote of the members shall be filled by vote of the majority of the remaining directors, even though they may constitute less than a quorum, and each person so elected shall be a director until a successor is elected at the next annual meeting of the members at which that class of directors is to be elected.

3.6 Removal of Directors. Subject to the rights of the Developer, at any regular or special meeting duly called, any one or more of the directors may be removed with or without cause by a majority of the votes of the membership present or represented at such meeting, providing a quorum in attendance, and a successor may then and there be elected to fill the vacancy thus created.

3.7 Annual Meetings and Notice. An annual meeting of the Board of Directors shall be held immediately after, and at the same place as, the annual meeting of the members, for the purpose of election of officers and transacting such business as may come before the meeting. Notice of the regular annual meeting of the Board of Directors shall not be required.

3.8 Regular Meetings and Notice. The Board of Directors may provide by a resolution for regular or periodic meetings of the Board, to be held at a fixed time and place, and upon the passage of any such resolution, such meetings shall be held at the stated time and place without the necessity of other notice than such resolution.

3.9 Special Meetings and Notice. Special meetings of the Board of Directors may be called by the President or by two (2) directors on three (3) days prior written notice to each director, given personally or by mail, which notice shall state the time, place and purpose of the meeting.

3.10 Waiver of Notice. Before, at or after any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a director at any meeting of the Board shall be a waiver by him of notice of the time and place

thereof. If all of the directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

3.11 Quorum of Directors - Adjournments. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors. If, at any meeting of the Board of Directors, there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time without further notice. At any such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting as originally called may be transacted.

3.12 Fidelity Bonds. The Board of Directors may, but are not required to, have some or all officers and/or employees of the Association handling or responsible for Association's funds furnish adequate fidelity bonds. The premiums on any such bonds shall be paid for by the Association.

ARTICLE IV

Officers

4.1 Designation, Election and Removal. The principal officers of the Association shall be a President, Vice President, Secretary and Treasurer, to be elected annually by the Board of Directors. Upon the affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, either with or without cause, and his successor shall be elected at a regular meeting of the Board of Directors, or at any special meeting called for that purpose. Any two or more offices, except a combination of the offices of President and Secretary and a combination of the offices of President and Vice President, may be held by the same person.

4.2 President. The President shall be selected from among the members of the Board of Directors and shall be the chief executive officer of the Association. He shall preside at all meetings of the Association and of the Board of Directors. He shall have all the general powers and duties which are usually vested in the office of President including, but not limited to, the power to sign, together with any other officer designated by the Board, any contracts, checks, drafts or other instruments on behalf of the Association in accordance with the provisions herein. The President shall perform such duties and have such other authority as may be delegated by the Board of Directors.

4.3 Vice President. The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If both the President and the Vice President are unable to act, the Board of Directors shall appoint some other member of the Board to act on an interim basis. The Vice President shall also perform such duties as shall from time to time be imposed upon him by the Board of Directors.

4.4 Secretary. The Secretary shall keep the minutes of all meetings of the Board of Directors and of the Association and shall have charge of the Association's books and records, and shall, in general, perform all duties incident to the office of the Secretary. The Secretary shall be responsible for maintaining the Membership List for the Association.

4.5 Treasurer. The Treasurer shall have responsibility for the Association's funds and shall be responsible for keeping full and accurate records of all receipts and disbursements and financial records and books of account on behalf of the Association. He shall be responsible for the deposit of all monies and all valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board of Directors. The Treasurer shall also be responsible for the billing and collection of all common and special charges and assessments made by the Association. The Treasurer shall count votes at meetings of the Association.

4.6 Assistants. The Board of Directors shall have the power to appoint any person to act as assistant to any officer, and such assistant so appointed by the Board of Directors shall have the power to perform all the duties of the office to which he is so appointed to be assistant, except as such power may be otherwise defined or restricted by the Board of Directors.

4.7 Compensation. No director or officer of the corporation shall receive any fee or other compensation for service rendered to the Association except by specific resolution of the membership.

ARTICLE V

Indemnification

5.1 Mandatory Indemnification. The Association shall, to the fullest extent permitted or required by Sections 181.04 to 181.053, inclusive, of the Wisconsin Nonstock Corporation Law ("Statute"), including any amendments thereto (but in the case of any such amendment, only to the extent such amendment permits or requires the Association to provide broader indemnification rights than prior to such amendment), indemnify its Directors and Officers against any and all Liabilities, and advance any and all reasonable Expenses, incurred thereby in any Proceeding to which any Director

or Officer is a Party because such Director or Officer is a Director or Officer of the Association. The Association may indemnify its employees and authorized agents, acting within the scope of their duties as such, to the same extent as Directors and Officers hereunder. The rights to indemnification granted hereunder shall not be deemed exclusive of any other rights to indemnification against Liabilities or the advancement of Expenses which Director or Officer may be entitled under any written agreement, board resolution, vote of the Members, the Statute or otherwise. All capitalized terms used in this Article V and not otherwise defined herein shall have the meaning set forth in Section 181.041 of the Statute.

5.2 Permissive Supplementary Benefits. The Association may, but shall not be required to, supplement the foregoing right to indemnification against Liabilities and advancement of Expenses under Section 5.1 above by (a) the purchase of insurance on behalf of any one or more of such Directors or Officers whether or not the corporation would be obligated to indemnify or advance expenses to such Director or Officer under Section 1 of this Article, and (b) entering into individual or group indemnification agreements with any one or more of such Directors or Officers.

5.3 Private Foundation Limitations. Notwithstanding the foregoing, no indemnification will be permitted to the extent such indemnification would constitute an act of "self-dealing" or is otherwise subject to excise taxes under Chapter 42 of the United States Internal Revenue Code of 1986, or prohibited under Section 181.77 of the Wisconsin Statutes or any similar successor provisions thereto.

ARTICLE VI

Operation of Quietwood Creek ("Subdivision")

6.1 The Association. The Association, acting through the Board of Directors, shall be responsible for administration, maintenance, management and operation of the Subdivision in accordance with the Deed Restrictions, the Articles of Incorporation, and these By-Laws. The Association, by resolution of the Board of Directors, shall have full power and authority to borrow money on behalf of the Association, provided that any single Association loan or mortgage involving the a sum not greater than ten percent (10%) of the current annual budget, shall first be approved by the membership at an annual or special meeting called for such purpose. The Association may, to the extent it deems advisable, contract for management services or a managing agent with respect to the administration and operation of the Association.

6.2 Rules and Regulations. The Association, through the Board of Directors, may from time to time adopt rules and regulations governing the operation, maintenance and use of the common areas of the Subdivision. Such rules and regulations of the Association shall not be inconsistent with the terms of the Deed Restrictions or the contracts, documents and easements referred to in the Deed Restrictions, and shall be designed to prevent unreasonable interference with the use of the respective common areas by persons entitled thereto. The Association members, their lessees or guests, and any occupants of a Lot shall conform to and abide by all such rules and regulations. A violation of any such rules or regulations shall constitute a violation of the Deed Restrictions. The Association through its Board of Directors shall designate such means of enforcement thereof as it deems necessary and appropriate. The rules and regulations may be adopted, altered and amended or repealed by either the members of the Association or the Board of Directors, in each case by an affirmative vote of 67 percent or more of the votes present or represented at a meeting at which a quorum is in attendance, provided that no rule or regulation adopted by the members shall be amended or repealed by the Board of Directors if the rule or regulations so adopted so provides.

6.3 Common Expenses. The Board of Directors shall determine the common expenses of the Association, and shall prepare an annual operating budget for the Association in order to determine the amount of the assessments payable by each Owner to meet the estimated common expenses of the Association for the ensuing year. The amounts required by such budget shall be assessed against the Lots and allocated among the members of the Association according to their respective percentages of ownership. The assessments shall be made on an annual basis and shall bear interest thirty (30) days after Notice of Assessment is mailed to an Owner at the prevailing prime rate of interest, determined as of the first day of each month by the bank handling the Association accounts, until paid in full. If delinquent for more than thirty (30) days, the Association may pursue foreclosure or collection action pursuant to Section 6.5 herein. In the event the annual budget and assessments are not determined prior to the beginning of a fiscal year of the Association, the assessment for the prior year shall remain in effect until revised by the Board of Directors.

6.4 Operating Budget. The annual operating budget shall provide for two funds, one of which shall be designated the "operating fund" and the other the "reserve fund". The operating fund shall be used for all common expenses which occur annually or more frequently, such as amounts required for the cost of maintenance and repair of the Common Areas (as defined in the Deed Restrictions), management services, insurance, common services and utilities, administration, materials and supplies. The reserve fund shall be used for contingencies and periodic expenses such as landscape replacement. In the event the Association incurs

extraordinary expenditures not originally included in the annual budget, then such sums as may be required in addition to the operating fund may be charged against the reserve fund. In the event that both funds prove inadequate to meet the necessary common expenses, or at the discretion of the Board of Directors, the directors may levy further assessment(s) against the Owners.

The reserve fund may also be used to discharge mechanic's liens or other encumbrances levied against the common areas, if resulting from action by the Association. The Owner or Owners responsible for any lien which is paid by the Association but not the obligation of the Association shall be specially assessed for the full amount thereof. The directors may also use the reserve fund for the maintenance and repair of any Lot, if such maintenance and repair, although the obligation of the Owner, is necessary to protect the Common Areas. The full amount of the cost of any such maintenance or repair shall be specially assessed to the Owner responsible therefor. Any charges against the reserve fund in accordance with the foregoing paragraphs which are not otherwise repaid to the fund shall be replenished by additional assessments against the Owners in subsequent years.

The annual budget shall be prepared and determined by December 1 of each calendar year. The Board of Directors shall advise all members of the Association in writing of the amount of common assessments payable on behalf of each Lot by the date of the annual membership meeting and shall furnish copies of the budget on which such common assessments are based to each member.

6.5 Default and Liens. All annual and special assessments, until paid, together with interest and actual costs of collection, constitute a lien for the benefit of the Association on the Lot on which they are assessed. If a member of the Association is in default in payment of any charges or assessments for a period of more than thirty (30) days, the Board of Directors, in the name of the Association, may file liens therefor and bring suit for and on behalf of the Association, as representative of all members, to enforce collection of such delinquencies or to foreclose the lien therefor, as provided by law and Deed Restrictions, and there shall be added to the amount due the costs of collection and interest, together with actual and reasonable attorney fees. Liens shall be signed and verified on behalf of the Association by any officer of the Association. The owners of a Lot against which a lien has been filed shall not be entitled to vote at Association meetings until the lien has been paid in full.

ARTICLE VII

Repairs and Maintenance

7.1 General Lot Maintenance. Except as otherwise provided in Section 7.2 below, the Owner of any Lot shall have the duty of, and responsibility for, keeping its property, improvements, appurtenances and landscaping in a well-maintained, safe, clean and attractive condition at all times. Although the Owner may by contract require tenants or occupants to perform these duties, the Owner shall be responsible to the Association for duties arising under this Section. All grass, trees and shrubbery must be kept in good condition and appearance at all times. All grass must be cut whenever necessary and weeds must be controlled. Each Owner shall be responsible for removal of any rubbish or trash or any character which may accumulate.

7.2 Common Areas. The Association shall be responsible for the management and control of the Common Areas (as defined in Section 10 of the Deed Restrictions) and shall cause the same to be maintained, repaired and kept in good, clean and attractive condition, order and repair. Without in any way limiting the foregoing, the Association shall be responsible, at Association expense (unless necessitated by the negligence or misuse of an Owner, in which case such expense shall be charged and specially assessed to such Owner), for accomplishment of all landscaping, grass cutting, weed control and general maintenance of the Common Areas.

ARTICLE VIII

Duties and Obligations of Owners

8.1 Rules and Regulations. Each Lot shall be occupied and used in accordance with the Deed Restrictions, the Articles of Incorporation, these By-Laws, and the rules and regulations adopted by the Association from time to time.

8.2 Enforcement. The rules and regulations contained in the Deed Restrictions and other rules and regulations adopted by the Association shall be enforced by such means as the Association deems necessary and appropriate, including recourse to civil authorities, court action if necessary, and monetary fines of up to \$50.00 per violation to be charged and assessed against the Owners who violate or whose guests violate such rules and regulations. Such fines shall be charged and assessed against a Lot and may be enforced and collected as an assessment for common expenses, including the foreclosure of a lien therefor, all pursuant to the provisions of the Deed Restrictions.

ARTICLE IX

General

9.1 Fiscal Year. The fiscal year of the Corporation shall begin on the first day of January and the end of the last day of December in each year, unless a different fiscal year is elected on the first annual tax return filed by the Association.

9.2 Address. The mailing address of the Association shall be c/o William W. Carity, 12720 West North Avenue, Brookfield, Wisconsin 53005, until such time as control of the Association passes to the Owners pursuant to the terms of the Deed Restrictions, at which time a new mailing address may be designated by the Association.

9.3 Seal. The Association shall have no corporate seal.

ARTICLE X

Amendments

10.1 By Members. These By-Laws may be altered, amended or repealed and new By-Laws may be adopted by the members, at any meeting called for purpose, by the affirmative vote of Owners having sixty-seven percent (67%) or more of the votes in the Association.

10.2 Rights of Developer. No amendment of these By-Laws shall alter or abrogate the rights of Developer as contained in these By-Laws or the Deed Restrictions.

10.3 Notice. Notice of any amendment shall be filed with the City of Muskego within ten (10) days of the amendment.

ARTICLE XI

Miscellaneous

11.1 Record of Ownership. Every Owner shall promptly cause to be duly recorded or filed of record the deed, assignment or other conveyance of such Lot or other evidence of such Owner's title thereto, and shall present such evidence of title and file any lease with the Board of Directors, and the Secretary shall maintain all such information in the Membership List of the Association.

11.2 Statement of Assessments. The Board of Directors or Treasurer of the Association, at the request of any mortgagee or any prospective purchaser of any Lot or interest therein, shall provide a statement to such person as to the amount of any

assessments against such Lot then due and unpaid, within ten (10) business days after such request is received.

11.3 Subordination. These By-Laws are subordinate and subject to all provisions of the Wisconsin Nonstock Corporation Law, and the Deed Restrictions and any amendments thereto, which shall control in case of any conflict.

11.4 Definition of Terms. All terms herein (except where specifically defined herein or clearly repugnant to the context) shall have the same meanings as in the Deed Restrictions or the Wisconsin Nonstock Corporation Law.

11.5 Interpretation. In case any provision of these By-Laws shall be held invalid, such invalidity shall no render invalid any other provision hereof which can be given effect. Nothing in these By-Laws shall be deemed or construed to authorize the Association or Board of Directors to conduct or engage in any active business for profit on behalf of any or all of the Owners.

Approved this _____ day of _____, 2000.

William W. Carity, Chairman

Kristin N. Carity, Secretary

**DECLARATION OF RESTRICTIONS
FOR
QUIETWOOD CREEK**

KNOW ALL PERSONS BY THESE PRESENTS; that **QUIETWOOD CREEK LLC** is a limited liability corporation duly organized and existing under and by the virtue of the State of Wisconsin. (herein referred to as "Developer", which terms shall also include the duly authorized agent to Developer). Developer is the owner of the premises described as follows (herein referred to as "QUIETWOOD CREEK").

QUIETWOOD CREEK

Being a part of the Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section 3, and the Northeast Quarter (NE 1/4) and Southeast Quarter (SE 1/4) of the Northeast Quarter (NE 1/4), and the Northeast Quarter (NE 1/4) and Southeast Quarter (SE 1/4) of the Southeast Quarter (SE 1/4) of Section 10, Town 5 North, Range 20 East, City of Muskego, Waukesha County, Wisconsin.

Developer, intending to establish a general plan for the use, occupancy and enjoyment of Quietwood Creek does hereby declare that, for the mutual benefit of present and future owners, Quietwood Creek shall be subject to the following restrictions.

1. **General Applicability** Unless specifically stated otherwise within this Declaration, all of the restrictions stated in this Declaration are applicable to all lots 1-142 of the Plat of Quietwood Creek.

2. **Building Restrictions** The following restrictions are applicable to all single-family lots:
 - a. Only one 1-story, 1 1/2 story, 2 story, split-level or bi-level single-family residential building and attached garage may be erected per lot.
 - b. The minimum living area of a 1-story home shall be 1600 square feet.
 - c. The minimum living area of the first floor of a 1 1/2-story home shall be 1100 square feet.
 - d. The minimum living area of a 2-story home shall be 1100 square feet on the first floor, and 1900 square feet total.
 - e. The minimum living area of a split-level or bi-level home shall be 1300 square feet total on the upper two levels.
 - f. Garages must be attached to the home directly, by breezeway, or in the basement of the home, and must be constructed at the same time as the home. The maximum size of any garage shall be 900 square feet.
 - g. The house, garage and paved driveways to the garage must be completed within one year after the first start of construction.
 - h. Minimum setbacks shall be 30 feet from the front lot line with side yard

setbacks a minimum of 10 feet on one side, all other sides shall be 15 feet. Rear yard setbacks shall not be less than 20 feet. Corner lots shall have a 30 foot street setback from both streets.

- i. There will be no outside storage of boats, trailers, buses, trucks, RV. campers or other vehicles or items deemed unacceptable by the Developer.
- j. All building plans, including the exterior design of each building, and basic site features such as landscaping, lighting, fences, garden structures, satellite dishes, swimming pools, additions and other temporary or permanent structures which affect the overall aesthetics of the Development, must be approved by the Developer in writing prior to construction, and prior to application for a building permit when one is required.
- k. In lieu of public street lights, one outdoor electric post-mounted lamp with photoelectric controls, must be installed.

3. **Lot Grading** Each lot owner must strictly adhere to and finish grade his lot in accordance with the Master Grading Plan on file in the office of the Subdivider and the office of the City Building Inspector unless a change is approved by the City Engineer. The Subdivider and/or the City and/or the agents, employees or independent contractors shall have the right, but not the responsibility, to enter upon any lot, at any time, for any purpose of inspection, maintenance, correction of any drainage conditions and the property owner is responsible for the cost of the same.

4. **Pond Liability** Storm water retention ponds have been created and are required by the City of Muskego to assist in the removal of sediment and detention of storm water in Quietwood Creek. The storm water retention ponds are not intended to be used for swimming or recreational facilities, and any use of the storm water retention ponds for such use is strictly prohibited. Any person entering into or using the storm water retention ponds for such use is strictly prohibited. Any persons entering into or using the storm water retention ponds either intentionally or accidentally do so at their own risk. By purchase of a Lot in Quietwood Creek, each Owner and its respective successors, assigns, heirs and personal representatives thereby waives, to the fullest extent permitted by law, any and all claims for liability against the City of Muskego, the Developer, the Quietwood Creek Homeowner's Association, and their respective agents, contractors, employees, officers, directors and shareholders, for injury or damage to person or property sustained in or about or resulting from the use or existence of the storm water retention ponds. In addition, each Owner (and its successors, assigns, heirs and personal representatives) agrees to indemnify, defend and hold harmless the City of Muskego, the Developer, the Quietwood Creek Homeowner's Association, and their respective agents, contractors, employees, officers, directors and shareholders, from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature (including attorney's fees), including those arising from any injury or damage to any person

(including death) or property sustained in or about or resulting from the use or existence of the storm water retention ponds.

5. **Business Parcel** Quietwood Creek is part of an Overlay Planned Development District which includes an area north of the residential development which shall initially be known as lot 143 in Quietwood Creek with frontage on Janesville Road which has been conceptually zoned Business (B-3) by the City of Muskego. Owners are hereby put on notice that the Business area may contain future construction of a Business nature that may be approved exclusively by the City of Muskego. No owner shall have the right to object to any such Business use or construction, nor shall any Owner assert the right to claim that it has incurred or will incur a loss or damage as a result thereof.

6. **Parade of Homes** Declarant discloses that Declarant may arrange for the Subdivision or any phase thereof to be included in a "Parade of Homes" or similarly titled event in which members of the public are invited to inspect, at one time, a number of Lots improved by buildings constructed by one or more contractors. Such events may result in temporary periods of significant construction activity, traffic slow downs, and large crowds, and may continue for a period of several weeks. By acceptance of a deed or other conveyance to a Lot, an Owner is deemed to acknowledge the possibility of such event and is deemed to have waived any objection to the issuance of any municipal permits required for such event. Developer is not, however, required to include the Subdivision in any such event, and may base its decision of whether or not to do so on Developer's individual needs.

7. **Owner's Association** An incorporated association of the owners of single family lots in Quietwood Creek is hereby created for the purposes of managing and controlling Common Areas, as defined below, and performing other duties as set forth herein for the common benefit of the Owners. This owner's association will formally be titled Quietwood Creek Homeowner's Association, and it is referred to herein as the Association. The membership of the Association will be comprised of the owners, or the authorized agents of the owners, of lots in the Development. Members of the Association are referred to herein as the Owners.

8. **Management Committee** The Association will be governed by a Board of Directors as referred to herein as the Board. The Board will conduct and manage all of the responsibilities of the Association. The members of the Board will be selected as follows:
 - a. At any time that the Developer owns Fifty Percent (50%) or more of the lots including all future additions to the Development, all three of the Board members will be appointed by the Developer.
 - b. At any time that the Developer owns between Twenty and Fifty Percent (20-50%) of the lots in the Development, including all future additions to the

Development, two members of the Board will be appointed by the Developer, and one member will be chosen according to the procedure stated below.

- c. At any time that the Developer owns between Five and Twenty Percent (5-20%) of the lots in the Development, including all future additions to the Development, one member of the Board will be appointed by the Developer and two members will be chosen according to the procedure below.
- d. At any time that the Developer owns fewer than Five Percent (5%) of the lots in the Development, including all future additions to the Development, all three members of the Board will be chosen according to the procedure stated below.

9. **Election of Committee Members** The initial members of the Committee will be William W. Carity, P. Kenneth Servi, and Kristin N. Carity. The initial members will serve until December 31, 2002.

- a. No later than sixty (60) days before the expiration of any term of the Board members, a notice of the election of Board members will be sent to all Owners. The notice will state the number of board positions that are subject to election, according to the criteria stated in sections 8a, 8b, 8c, and 8d, and will solicit nominations for those positions. The notice will also state the date, time and place for a meeting of the Association, to be held no later than ten (10) days prior to the expiration of any term of the Board members, at which time an election of Board membership will take place.
- b. At the election meeting, the nominations for the Board membership will be announced, and additional nominations may be taken from the floor. Only owners may be nominated for Board membership, except for the initial members named above, who may be re-appointed to successive terms by the Developer, subject to the criteria of sections 8a, 8b, 8c, and 8d.
- c. Each owner is entitled to vote in person or by written proxy in elections for selecting members of the Board. Owners will have one vote for each single family lot owned.
- d. Board membership will be assigned to those Owners receiving the greater number of votes at the meeting.
- e. Except for the initial members, Board members terms will be as specified in the By-Laws of the Association. If any member of the Board dies, resigns, becomes unable to act or is no longer an Owner, the unexpired term of such member must be filled by a special election by the Board Members, or appointment by the Developer, if applicable, at a meeting called as soon as possible after the Board vacancy exists.

10. **Common Area Definition** Wherever used in this Declaration or the By-Laws of the Association, the term Common Area shall include:

- a. All areas within Quietwood Creek which are not owned by any Owner, or which are owned by the Association.
- b. The areas which are generally identified as such on the plat of Quietwood Creek which is attached as Exhibit "B".
- c. Outlots 1-7 in Quietwood Creek.
- d. All lawn and landscaped areas, and any entrance monuments, fencing and lighting, contained within the public right-of-way associated with Quietwood Circle; and all such areas contained within landscaping easements or pedestrian easements within Quietwood Creek.
- e. Any storm water drainage easements contained on private lots within Quietwood Creek.
- f. Any future stages of the development that will be designated as a Common Area by the Association or the Developer.

11. **No Agency for Other Owners** No Owner, other than members of the Board, has any authority to act for the Association or the other Owners, as agent or otherwise to bind the Association or the other Owners to contracts, negotiable instruments or other obligations or undertakings of any kind.

12. **Wetland Buffer** The State of Wisconsin Department of Natural Resources, according to Permit No. 3-SE-99-0230 / 0246 as amended, has required that all lots adjacent to jurisdictional wetlands as shown on the Final Plat of Quietwood Creek shall have a natural unmowed buffer of 25 feet that shall be maintained around the wetland area of the subject lot. This requirement affects lots # 9, 10, 11, 20, 101, 102, 103, 104, 105, 106, and 107 in the plat of Quietwood Creek. An exception to this requirement is lots 109 and 111 which shall maintain a natural unmowed buffer of 12 feet around the wetland area.

13. **Utility Easements** Developer has the right to grant and convey easements to the City or to any public or private utility company or individual party upon, over, through or across those portions of any lot in the Development for purposes of allowing the City, individual party or utility service to any lot or lots or through any portions of the Subdivision or for purposes of facilitating said services within or through the Subdivision. Such easements may be granted by Developer, in its own name and without the consent or approval of any lot Owner, until such time as Developer has conveyed legal title to all lots platted or to be platted in the Subdivision to persons other than a successor - Developer.

14. **Maintenance Easements** Certain lots in Quietwood Creek have or will have storm water drainage or maintenance easements. These easements are within defined boundaries in these lots, and are restricted to only such areas, methods of access and duration as are reasonably required to perform necessary maintenance to the

easements or storm water retention ponds or drainage ways. If a property owner does not perform required maintenance in the easement area, the City of Muskego is authorized but not required to perform said maintenance. The costs and expenses associated with said maintenance shall be entered on the tax roll as a special assessment against the property and collected with any other taxes levied thereon for the year in which the work is completed.

15. **No Waiver of Rights** Any failure of the Association or the Committee to enforce any provisions contained in this Declaration will not be deemed to be a waiver of the rights to do so, or an acquiescence in any subsequent action.
16. **Future Development** The Developer, its successors and assigns have the right to bring within this Declaration future stages of the Development, provided such future stages are adjacent to the existing Development. Any future stages added to this Declaration authorized under this sub-section will be added by recording a Supplemental Declaration of Covenants and Restrictions with respect to the future stages which will extend the provisions of this Declaration to such future stages. Except with respect to increasing the numbers of Owners, such supplementary declaration may not revoke, modify or add to the covenants established by this Declaration.
17. **Amendments** This Declaration may be amended by recording in the office of the Register of Deeds for Waukesha County, Wisconsin, a document to that effect executed by the Developer (so long as it owns any lots) and the owners of at least fifty percent (50%) of all then-existing owners of platted lots in the Development, and their mortgagors, with all signatures duly notarized. After full conveyance of all lots by Developer, such amendments shall be executed by the owners of at least sixty (60%) of all the existing owners of platted lots. Such amendment will become effective only upon recording. Notwithstanding the foregoing provisions of this Section, Developer may amend this Declaration without the consent of any of the lot Owners solely to effect an expansion of Quietwood Creek to include contiguous parcels of real estate as may be acquired by Developer from time to time, or to amend the Declaration for subsequent phases of Quietwood Creek.
18. **Duration of Restrictions** These restrictions will be in force perpetually from the date hereof and will be deemed to run with the land, to bind the owners and their successors and assigns, and be enforceable by any Owner. This Declaration is executed by the Developer's signatures below, and is effective upon recording by the Waukesha County Register of Deeds.

