

DECLARATION OF RESTRICTIONS FOR QUIETWOOD EAST

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

QUIETWOOD EAST, Outlot 2 of Certified Survey Map No. 8941, Being a part of the Northeast Quarter (NE¹/₄) of the Southeast Quarter (SE¹/₄) of Section 10, Town 5 North, Range 20 East in the City of Muskego, County of Waukesha, WI. Together with Parcel 1 of Certified Survey Map No. 7939, Being a part of the Northwest (NW¹/₄) of the Southwest Quarter (SW¹/₄) of Section 11, Town 5 North, Range 20 East, City of Muskego, County of Waukesha, WI. Together with part of the Northwest Quarter (NW¹/₄) of the Southwest Quarter (SW¹/₄) of Section 11 and the South 13 acres of the Southwest Quarter (SW¹/₄) of the Northwest Quarter (NW¹/₄) of Section 11, Town 5 North, Range 20 East, City of Muskego, Waukesha County, Wisconsin.

The purpose of this Declaration is to insure the best use and most appropriate development and improvement of each building site in the development; to protect owners of building sites against such use of surrounding building sites as will detract from the residential value of their property, to preclude, as far as practicable, poorly designed or proportioned structures; to obtain harmonious use of materials and color schemes, to insure a quality residential development; to encourage and secure the erection of attractive homes in appropriate locations on building sites; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and in general, to provide adequately for a high type and quality of improvement in the Development and thereby to preserve and enhance the value of investments made by purchasers of building sites in the Development.

1. **General Applicability** Unless specifically stated otherwise within this Declaration, all of the restrictions stated in this Declaration are applicable to all lots in Quietwood East.
2. **Building Restrictions, Single-Family Lots** The following restrictions are applicable to all single-family lots:
 - a. Only one, 1-story, 1½-story, 2-story, split-level or bi-level single-family residential building and attached garage may be erected per lot.
 - b. A single story residence shall have a minimum of 1800 square feet of living area on the first floor.
 - c. The minimum living area of the first floor of a 1½-story home shall be 1100 square feet.
 - d. The minimum living area of a 2-story home shall be 1150 square feet on the first floor, and 2300 square feet total.
 - e. The minimum living area of a split-level or bi-level home shall be 2300 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.

- g. The house, garage, paved driveways to the garage and landscaping must be completed within one year after the first start of construction.
 - h. Minimum setbacks shall be 40 feet from the front lot line with side yard setbacks a minimum of 15 feet on one side. All other sides (including rear) shall not be less than 20 feet.
 - i. There will be no outside storage of boats, trailers, buses, trucks, campers or other vehicles or items deemed unacceptable by the Developer.
 - j. All building plans, the exterior design of each building and basic site features such as fences, garden structures, satellite dishes, children's play structures, swimming pools, additions and other temporary or permanent structures which affect the overall environment 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. One outdoor electric post-mounted lamp as approved by the Developer must be installed by each homeowner.
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** Stormwater retention ponds have been created and are required by the City of Muskego to assist in the removal of sediment and detention of stormwater in Quietwood East. The stormwater retention ponds are not intended to be used for swimming or recreational activities, and any use of the stormwater retention ponds for such use is strictly prohibited. Any persons entering into or using the stormwater retention ponds either intentionally or accidentally do so at their own risk. By purchase of a lot in Quietwood East, each Owner and it's 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 East 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 stormwater 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 East 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 stormwater retention ponds.
5. **Homeowner's Association** An incorporated association of the owners of single family lots in Quietwood East 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 Homeowners. This Owner's Association will formally be titled Quietwood East Homeowner's Association and is referred to herein as "*The Association*". The membership of The Association will be comprised of the homeowners or the authorized agents of the homeowners of lots in the Development. Members of The Association are referred to herein as the "*Homeowners*".

6. **Management Committee** The Association will be governed by a management committee consisting of three members. This management committee is referred to herein as "*The Committee*". The Committee will conduct and manage all of the responsibilities of the Association. The members of the Committee 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 Committee 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 Committee 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 Committee will be appointed by the Developer and two members will be chosen according to the procedure stated 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 Committee will be chosen according to the procedure stated below.

7. **Election of Committee Members**

- a. 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, 2004. No later than sixty (60) days before the expiration of any term of the Committee members a notice of the election of Committee members will be sent to all Homeowners. The notice will state the number of committee positions that are subject to election, according to the criteria stated in sections 6a, 6b, 6c and 6d 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 Committee members at which time an election of Committee membership will take place.
- b. At the election meeting, the nominations for Committee membership will be announced and additional nominations may be taken from the floor. Only homeowners may be nominated for Committee membership except for the initial members named above, who may be reappointed to successive terms by the Developer, subject to the criteria of sections 6a, 6b, 6c and 6d.
- c. Each homeowner is entitled to vote in person or by written proxy in elections for selecting members of the Committee. Homeowners will have one vote for each single family lot owned.
- d. Committee membership will be assigned to those Homeowners receiving the greatest number of votes at the meeting.
- e. Except for the initial members, Committee member's terms will be for two calendar years, beginning January 1 of the year immediately after the applicable election. If any member of the Committee dies, resigns, becomes unable to act or is no longer a Homeowner the unexpired term of such member must be filled by a special election or appointment by the Developer, if applicable, at a meeting called as soon as possible after the Committee vacancy exists.

8. **Committee Meetings** All meetings of the Committee will be open to Homeowners and will be held upon not less than three (3) days prior written notice to all of the Homeowners. Two (2) members of the Committee constitute a quorum. Actions of the Committee are by majority vote.
9. **Duties of the Committee** The Committee has the following duties:
 - a. Provide for the maintenance of improvements in the Common Area, which it may deem necessary or desirable. Such improvements consist of entryway monuments, fencing, lighting, landscaping and such other improvements as may be approved by the Committee.
 - b. Inspect, maintain and keep in good operating condition all stormwater retention and detention basins and storm water drainage easements on private lots.
 - c. Provide for the maintenance of all outlots.
 - d. Establish dates and procedures for the election of members of the Committee.
 - e. Promulgate operating procedures for the conduct of the Association's affairs.
 - f. Enforce the provisions of this Declaration.
10. **Powers of the Committee** The Committee has the following powers:
 - a. Cause the Common Areas to be maintained, repaired, landscaped and kept in good, clean and attractive condition.
 - b. Enter into contracts and employ agents, attorneys or others for purposes of discharging its duties and responsibilities hereunder.
 - c. Levy and collect assessments in accordance with the provisions of section 11, below.
 - d. Maintain, repair and operate services in conjunction with Common Areas, now existing and hereafter acquired, and to pay for those items.
 - e. Pay for any insurance maintained by the Association.
 - f. Pay taxes, assessments and charges of any kind made or levied by any governmental authority against the Association or upon any property of the Association.
 - g. Pay all costs and expenses for the operation and administration of the Association including legal, accounting and management fees and other costs incidental to the exercise of any of its powers or obligations.
 - h. Pay costs and expenses for additional improvements to the Common Areas beyond those installed by the Developer.
 - i. Pay all items subject to Special Assessment which have not been collected from a Homeowner at the time of payment of such item is due, and to collect such amounts from that Homeowner, provided that upon collection of the Special Assessment from that lot owner, all other lot owners will receive an appropriate adjustment, reimbursement or credit on future General Assessments, as the board may determine, for payments made under this paragraph.
 - j. Pay all damages, costs, expenses and attorney fees incurred in or in anticipation of, any suit or proceeding whether administrative legislative or judicial which are not otherwise collected by Special Assessment.
11. **Assessments** The Committee shall levy and collect assessments from Owners as follows:
 - a. The owner of each single family lot is subject to a general annual charge or assessment for the purpose of defraying the costs of maintaining and administering the Common Area. Each Homeowner's annual assessment will be equal to the Association's total annual costs and expenses in performing its duties hereunder, divided by the total number of single family lots in the Development. Said costs include, but are not limited to payment of taxes,

insurance, repair, replacement and additions to the improvements made to the Common Area, the cost of labor, equipment, materials, management and supervision thereof, attorneys fees, engineering fees, and all costs of the Association reasonably incurred in conducting its affairs and enforcing the provisions of this Declaration.

- b. Assessments must be approved at a duly convened meeting of the Committee.
 - c. Written notice of an assessment will be personally delivered to each Homeowner subject to the assessment or delivered by certified mail addressed to the last known address of such Homeowner.
 - d. Assessments become due and payable thirty (30) days after the mailing or personal delivery of the notice, as the case may be.
 - e. Assessments not paid when due bear interest at the rate of Twelve Percent (12%) per annum until paid, and such unpaid assessments and the interest thereon constitutes a continuing lien against the real estate which it was assessed until they have been paid in full. The assessment and interest thereon will also be the personal obligation of the Homeowner of the real estate against which the assessment was made.
 - f. The Committee may record a document with the Register of Deeds in Waukesha County, Wisconsin, giving notice of a lien for any such unpaid assessments and upon payment or satisfaction of the amount due record a document canceling or releasing any such lien. The failure to file, any such notice does not impair the validity of the lien. All recording and attorney fees relating to any such document will be borne by the affected Homeowner.
 - g. Upon application by any Homeowner, any member of the Committee may, without calling a meeting of the Committee, provide to such Homeowner a statement in recordable form certifying (1) that the signer is a duly elected member of the Committee and (2) as to the existence of any unpaid assessments or other amounts due to the Association. Such statement shall be binding upon the Committee and shall be conclusive evidence to any party relaying thereon of the payment of any and all outstanding assessments or other amounts due to the Association.
 - h. Any lien for assessment may be foreclosed by a suit brought by the Committee, acting on behalf of the Association, as a foreclosure of a mortgage on real property.
12. **Committee Liability** Members of the Committee are not liable to the Homeowners or any other party for any action taken by them in good faith in discharging their duties hereunder, even if such action involved a mistaken judgment or negligence by the member or agents of employees of the Committee. The Association shall indemnify and hold the members of the Committee harmless from and against any and all costs or expenses, including reasonable attorney's fees, in connection with any suit or other action relating to the performance of their duties hereunder.
13. **Common Areas Definition** Wherever used in this Declaration, the term Common Area means:
- a. All lawn and landscaped areas, and any entrance monuments including fencing and lighting, contained within any lot or outlot or landscape easement area in the Development.
 - b. Any storm water retention and detention ponds or storm sewer easements contained on private lots within Quietwood East.
 - c. Any area within the Development that is designated as a Common Area by the Association or the Developer.

14. **Utility Easements** Developer has the right to grant and convey easements to the City or to any public or private utility company upon, over, through or across those portions of any lot in the Development within 10 feet of any lot line for purposes of allowing the City or utility company to furnish gas, electric, water, sewer, cable television or other utility service to any lot or lots or through any portions of the Subdivision or for purposes of facilitation drainage of storm or surface water 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.
15. **Maintenance Easements** Certain lots in Quietwood East have or will have stormwater drainage or maintenance easements. These easements are within defined boundaries in these lots and are restricted to only such areas, methods or access and duration as are reasonably required to perform necessary maintenance to the easements or stormwater 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.
16. **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.
17. **Enforcement of Obligation by City** If the Committee fails to discharge its duties under this Declaration within sixty (60) days of written demand to do so by the City, the City may discharge the duties of the Committee. The City's costs incurred in connection therewith will be charged to the Owners of the properties affected by such actions of the City by adding to each Owner's real estate tax statement incurring a pro-rata share, based on the portion of cost of total charges incurred with respect to the individual Owner's lot(s).
18. **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 of at least sixty percent (60%) of all then-existing platted lots in the Development, and their mortgagors, with all signatures duly notarized. Such amendment will become effective only upon recording. Notwithstanding the foregoing provisions of this Section, The Developer may amend this Declaration without the consent of any of the lot Owners solely to effect an expansion of Quietwood East to include contiguous parcels of real estate as may be acquired by the Developer from time to time, or to amend the Declaration for subsequent phases of Quietwood East.
19. **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 Homeowners and their heirs, successors and assigns and be enforceable by any Homeowner and to the extent permitted by Section 17 above, the City.

