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**FIRST SUPPLEMENTAL, AMENDED AND RESTATED DECLARATION OF
RESTRICTIONS, COVENANTS AND EASEMENTS
FOR
VILLAGE GREEN HEIGHTS**

THIS FIRST SUPPLEMENTAL, AMENDED AND RESTATED DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR VILLAGE GREEN HEIGHTS is made this ____ day of August, 2006, by **VILLAGE GREEN DEVELOPMENT, LLC**, an Illinois corporation ("**Developer**"), with respect to the real property located in the Village of Pleasant Prairie (the "**Village**"), Kenosha County, Wisconsin and more particularly described on Exhibit A attached hereto (this "**Supplemental Declaration**");

STATEMENT OF RELEVANT FACTS

A. Developer executed a Declaration of Restrictions, Covenants and Easements for Village Green Heights dated February 2, 2004, recorded in the Office of the Recorder of Deeds of Kenosha County, Wisconsin (the "**Recorder of Deeds**") on February 3, 2004 as Document No. 1373040 (the "**Original Declaration**"), subjecting the real property legally described as the "**Original Property**" on Exhibit A attached hereto and made a part hereof, consisting of 135 single-family lots and two outlots (the "**Original Property**"), to conditions, covenants, restrictions, easements, liens and charges ("**Covenants and Restrictions**") set forth in the Original Declaration.

B. Developer, with the approval of the Village of Pleasant Prairie, Wisconsin (the "**Village**"), has caused Outlot 5 (as defined in the Original Agreement), Outlot 2 (a small parcel adjacent to Outlot 5, created by Certified Survey Map No. 2496) and a portion of Outlot 3 (as shown on the original Subdivision Plat) to be resubdivided into eighty-three (83) single-family lots and four (4) outlots, pursuant to the "Final Plat of Village Green Heights Addition No. 1, a Resubdivision of Outlot 5 and Outlot 3 of Village Green Final Plat and Outlot 2 of Certified Survey Map No. 2496," dated August ____, 2006 and recorded with the Recorder of Deeds on August ____, 2006 as Document No. _____ (the "**Resubdivision Plat**"). Lots 136

through 218, inclusive, and Outlots 7, 8 10 and 11, all as shown in the Resubdivision Plat, are referred to as the “**Additional Property.**”

C. Section 2.2 of the Original Declaration authorizes Developer to subject the Additional Property to the Covenants and Restrictions of the Original Declaration by filing for the record in the Office of the Recorder of Deeds a supplemental declaration with respect to the Additional Property. Section 2.2 reads as follows:

“2.2 Additions to the Property. Developer may, from time to time and in its sole discretion, subject all or a portion of Outlot 5 as shown on the Subdivision Plat, or any other portion of property adjacent thereto or to the Property, by appropriate reference hereto. The additions authorized herein shall be made by filing for the record in the Office of the Register of Deeds for Kenosha County a Supplemental Declaration with respect to the additional property which shall extend the scheme of the restrictions and covenants of this Declaration to such property, including increasing the number of Members and votes in the Association and the amount of property owned and maintained by the Association. Such Supplemental Declaration may contain such additions and modifications of the restrictions and covenants applicable to the additional property as may be necessary to reflect the different character, if any, of the additional property and as are not inconsistent with the scheme of this Declaration. Such Supplemental Declaration may also provide for the use and enjoyment of the Common Areas by the owners of the Lots contained within the additional properties which become subject to this Declaration. Upon the recording of a Supplemental Declaration, the property described therein shall become a part of the Property and shall be subject to all of the terms of this Declaration.”

D. Developer is exercising its right to subject the Additional Property to the Covenants and Restrictions of the Original Declaration, as authorized by Section 2.2 of the Original Declaration, by signing and recording this Supplemental Declaration.

F. Developer is recording this Supplemental Declaration in the form of this amended and restated declaration that treats the Original Property and the Additional Property as an integrated whole, for the convenience of the Members (*def. Art.1*) and the members of the Board of Directors (*def. Art.1*) of the Association (*def. Art.1*), and to facilitate administration of the Association and enforcement of the Covenants and Restrictions. References in the text below to this “**Declaration**” mean the Original Declaration as amended and restated by this Supplemental Declaration.

THEREFORE, Developer hereby declares that, effective as of the date this Supplemental Declaration is recorded with the Recorder of Deeds (the “**Effective Date**”), the Additional Property is made subject to the Covenants and Restrictions of the Original Declaration, and the Original Declaration is amended and restated in its entirety by this Declaration.

1. Incorporation of Statement of Relevant Facts. The Statement of Relevant Facts is incorporated into the text of this Declaration as if included among the provisions below.

2. Addition of Additional Property to the Original Property. This Declaration constitutes a “**Supplemental Declaration**” for the purposes of Section 2.2 of the Original

Declaration, and upon the recording of this Declaration, the Additional Property becomes a part of the Property and subject to the terms of the Original Declaration.

3. Amendment and Restatement of the Original Declaration. The Original Declaration is amended, restated and superseded in its entirety by this Declaration, as set forth below.

ARTICLE I DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

“Architectural Control Committee” shall mean initially, Developer, and thereafter as provided in Section 4.3 hereof, a committee composed of three (3) representatives appointed by the Board of Directors of the Association, or if no committee has been appointed, the full Board shall serve as the Architectural Control Committee.

“Association” shall mean and refer to the Village Green Heights Homeowners Association, Inc., a Wisconsin not-for-profit corporation formed by the Developer.

“Bylaws” shall mean the written Bylaws for the Association initially established by the Developer, as they may be amended from time to time by the Board of Directors of the Association.

“Common Areas” shall mean and refer to: (i) Outlot 4, Outlot 6, Outlot 8 and Outlot 10; (ii) all easements for the benefit of the Association on the Subdivision Plat or any certified survey map of the Property including, without limitation, those designated as:

Dedicated Utility Easement Areas (**“Utility Easement Areas”**);

Dedicated Stormwater Management, Access and Maintenance Easement (**“Stormwater Management Easements”**);

Dedicated Restricted Woodland Protection and Preservation Areas (**“Woodland Protection Areas”**);

Dedicated Restricted Wetland Protection and Preservation Areas (**“Wetland Protection Areas”**); and

Landscape, Access and Maintenance Easement Areas (**“Landscape Easements”**).

(iii) any other areas as shown on the Subdivision Plat and which at the time of filing of the Subdivision Plat or at such other time Developer in its sole discretion desires to convey to the Association or which, upon transfer of responsibility by Developer to the Association, the Association shall have the responsibility to maintain; and (iv) improvements on any of the land

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described in clauses (i) through (iii) hereof or other general improvements wherever located (such as the lights and Entrance Monuments, landscaping, etc.), which are intended to be devoted to the common use, benefit and enjoyment of the Owners of the Property.

“Developer” shall mean VILLAGE GREEN DEVELOPMENT, LLC, a Delaware limited liability company.

“Lot” shall mean and refer to any numbered plot of land shown upon any recorded Subdivision Plat of the Property, with the exception of the Outlots and areas shown on the Subdivision Plat as Dedicated Public Streets.

“Member” shall mean and refer to all those Owners who are Members of the Association as provided in Article IV, Section 4.3.

“Outlots” shall mean the outlots designated as such on the Subdivision Plat, whether owned by the Association or the Village.

“Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot; except that as to any Lot which is the subject of a land contract wherein the purchaser is in possession, the terms, **“Owner”** shall refer to such person instead of the vendor.

“Property” or **“Properties”** shall mean and refer to the Original Property and the Additional Property.

“Street Yard” shall mean and refer to the portion of the Lot which extends from the boundary of the Lot that abuts the street or public right-of-way (measured from the property line), to the foundation of the side of the dwelling which is closest to said street or right-of-way. For any corner Lot, the Street Yard shall be measured from each street or public-right of way which said corner Lot abuts to the foundation of the side of the dwelling which is closest to the street or right-of-way in question.

“Subdivision Plat” shall mean the Plat of Subdivision of Village Green Heights Subdivision dated February 2, 2004 and recorded with the Recorder of Deeds on February 3, 2004 as Document No. 1373036, as modified by the “Final Plat of Village Green Heights Addition No. 1, a Resubdivision of Outlot 5 and Outlot 3 of Village Green Final Plat and Outlot 2 of Certified Survey Map No. 2496” recorded with the Recorder of Deeds on August ____, 2006 as Document No. _____, and any subsequent modifications and resubdivision thereof.

“Village” shall mean and refer to the Village of Pleasant Prairie, Kenosha County, Wisconsin.

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

The real property which is and shall be held, used, transferred, sold, conveyed and occupied subject to this Declaration is located in the Village of Pleasant Prairie, Kenosha County, Wisconsin, and is more particularly described on Exhibit A attached hereto. The Property includes two hundred eighteen (218) single family Lots and four (4) Outlots, all of which are shown on the Subdivision Plat.

ARTICLE III GENERAL PURPOSES AND CONDITIONS

3.1 General Purpose. The Property is subject to the covenants, restrictions, and easements to insure the best use and the most appropriate development and improvement; to protect the Owners against such improper use of the Property as will depreciate the value thereof; to preserve, so far as practicable, the natural beauty of the Property; to provide for entrances to the Property; to guard against erection of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of the Property; to encourage and secure the erection of attractive, substantial homes, with appropriate locations on Lots; to prevent haphazard and inharmonious improvement of Lots; to secure and maintain proper setbacks from street and adequate free space between structures; to encourage secure and maintain attractive and harmonious landscaping of Lots and Common Areas; and in general to provide adequately for a high type and quality of improvement in the Property and thereby to enhance the value of investments made by purchasers of Lots.

3.2 Acceptance of Dedications, Restrictive Covenants, Easement and Declarations. The Association is hereby deemed to have accepted the dedications shown on the Subdivision Plat, and shall be bound by the restrictive covenants and easements running with the land, both as contained on the Subdivision Plat. The Association hereby accepts the obligations imposed by this Declaration. The restrictions and covenants contained herein shall be in addition to any restrictions or covenants now or hereafter imposed upon the Lots by any applicable Village Zoning Ordinance, Land Division and Development Control Ordinance, or Building Code or by the Developer in accordance with the terms of this Declaration.

3.3 Initial Construction of Common Areas. Notwithstanding anything contained herein to the contrary, the Developer shall be responsible for the following in or on the Common Areas: rough and final grading, topsoiling, seeding, construction, installation, repair, alteration, replacement, planting and maintenance of Entrance Monuments, stormwater, drainage and detention and/or retention basin improvements, park and open space, including, without limitation, storm sewer and drainage system improvements, signage, lighting, utility and communications facilities, plantings, sidewalks, street trees and other landscaping, underground irrigation systems in the cul-de-sac and boulevard islands if required by the Village and other locations described on the Subdivision Plat (and such other areas as Developer may elect) and for all related ingress and egress, construction, installation, repair, alteration, replacement,

planting and other maintenance activities until each Outlot has been topographically field verified by the Developer, and inspected, verified and accepted by the Village in accordance with the terms and conditions imposed by the Village. The Developer shall also be responsible for landscaping within the cul-de-sac and boulevard islands and median strips within the Dedicated Public Streets and the street trees (all as described hereinbelow) until the foregoing have been constructed by Developer, inspected and accepted by the Village, and responsibility therefore shall have been transferred by the Developer to the Association.

3.4 Land Use and Building Type. No Lot shall be used except for single family residential purposes and limited professional offices and home occupations as defined by and/or permitted under applicable Zoning Ordinances. No building shall be erected, altered, placed or permitted to remain on any Lot other than one, single-family dwelling not exceeding two stories (plus attic) in height, and a private attached garage for not less than two cars.

No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Property. No “**For Sale**” or “**For Rent**” signs, advertising, or other displays shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined by the Association. Notwithstanding the foregoing, Developer reserves the right to place “**For Sale**” or “**For Rent**” signs and other promotional signs on the Property, so long as there remains any unsold Lots.

Notwithstanding anything contained herein to the contrary, until the sale of the last Lot improved with a house is sold to a third party, Developer and any subsequent purchaser of a Lot may use such Lot for purposes of building model homes open to the public for inspection and/or sale subject to the requirements set forth herein and further subject to applicable Village Zoning Ordinances and conditions imposed by the Village in granting any use or building permit, including, but not limited to, the imposition of a limitation on the length of time a dwelling may be used as a model home (which shall not be less than two (2) years).

3.5 Architectural Control. No building, wall, fence, swimming pool, driveway, deck, sidewalk, landscaping or other structure or improvement of any type (including antennae of any size or shape, whether freestanding or attached to another structure) shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition or improvement to or change or alteration on any Lot (including without limitation, making a curb cut, adding a deck, patio or sidewalk, repainting or landscaping changes on existing homes for which plans have previously been approved) be made until the plans, specifications and plot plan showing the nature, kind, shape, height, materials, color and location of the same and the landscape layout described in Section 3.11 hereof shall have been submitted to and approved in writing by the Architectural Control Committee as to: (i) location of the Building in relation to the boundaries and topography of the Lot and other Buildings on neighboring Lots; (ii) materials, color and harmony of exterior design; (iii) roof pitch; and (iv) compliance with the provisions of this Declaration. In the event the Architectural Control Committee fails to approve or disapprove within sixty (60) days after the complete plans and specifications have been submitted to it, then approval will be deemed to have been given and the Owner will be deemed to have fully complied with this Section as to such addition, alteration or change. No Owner shall request or obtain a building permit for a Lot from the Village without first obtaining the approval of the plans and specifications from the Architectural Control Committee. Developer hereby authorizes the Village to postpone its

review of any application for a building permit or to deny any building permit for a dwelling or other structure on any Lot unless and until the plans and specifications for such dwelling or structure have been approved or deemed approved by the Architectural Control Committee. Notwithstanding the foregoing, Developer acknowledges and agrees that the Village shall have no responsibility for verifying that such plans and specifications comply with the substantive design guidelines and criteria imposed by the Architectural Control Committee. The Architectural Control Committee shall have the sole discretion and the right (but is under no obligation) to waive infractions or deviations from these restrictions in cases of hardship. The Architectural Control Committee shall have the sole discretion to determine which of the dwelling size requirements of this Declaration applies to a particular proposed dwelling and whether the same has been met. The provisions of this Declaration are minimum requirements and the Architectural Control Committee may in its discretion adopt stricter or more detailed standards and guidelines in written form, and amend them from time to time, or conversely, may relax standards, on a case by case basis if it reasonably determines that such modified standards are required for the benefit of the entire Property, provided such variance is not in conflict with the dedications, restrictive covenants, and easements running with the land as described on the Subdivision Plat or the obligations imposed by this Declaration on Owners or the requirements of the Village Ordinances. Further, Developer may require reasonable alterations to be made to any of the plans to be submitted under this Declaration and said recommendations of Developer shall be binding upon each and every Owner.

The Architectural Control Committee may charge a reasonable review fee to the Owner for the review of the Owner's proposed plans and specifications.

No building shall be placed or permitted to remain on any Lot other than buildings newly constructed on the Lot; no prefabricated or previously constructed dwelling or structures shall be relocated to or situated upon any Lot. Pre-manufactured building components may be permitted with the prior written approval of the Architectural Control Committee, and in its sole discretion.

3.6 Dwelling Size. No dwelling shall be erected in or on any Lot having a ground area within the perimeter of the main building, at or above finish grade elevation (exclusive of garages, basements, porches, patios, breezeways and similar additions), measured along the exterior walls, of less than the following areas:

- (a) Not less than 1,900 square feet for a one-story dwelling;
- (b) Not less than 2,200 square feet for a split-level or bi-level or two-story dwelling with a minimum first floor area of 1,100 square feet; or
- (c) With respect to all other types of dwellings, not less than such areas, determined by the Architectural Control committee, as are consistent with the foregoing and with other provisions hereof.

However, the Architectural Control Committee may deviate from the above requirements in case of hardship relating to placing a dwelling on a Lot, provided such variance is not in conflict with the requirements of the Village Ordinance(s).

3.7 Grading, Building, Location and Lot Area.

3.7.1 Any grading of a Lot must conform to the Master Grading and Drainage Plans (“**Grading Plans**”) on file with the Village, and are subject to the prior review and approval of the Architectural Control Committee.

3.7.2 All Lots shall have minimum setbacks from the street lot line and from the interior side lot lines of the distances shown on the Subdivision Plat, subject to any sightline setbacks that may be required by Village Zoning or Subdivision Ordinances. In addition, the dwelling on each Lot shall be located parallel to the street and oriented in a similar sightline setback with the adjacent Lots.

3.7.3 Within each set of building construction plans submitted to the Architectural Control Committee for approval, shall be a plat of survey showing the placement of the proposed dwelling with the existing ground grade shown at all corners together with all easements as shown on the Subdivision Plat. The Architectural Control Committee reserves the right to make modifications as to the final first floor grade of the building. The landscaping and drainage of the Lot shall conform to the Village approved Grading Plans.

3.7.4 Each Owner shall be responsible for insuring that drainage from his or her Lot adheres to the existing drainage patterns as set forth in the approved Grading Plans and that the Owner’s construction and other building activity does not interfere with or disrupt the existing or planned drainage patterns. The existing drainage pattern on a Lot shall not be changed, and no change to the drainage pattern on other lands within the Property or Village Green shall be caused by an Owner which varies from the approved Grading Plan as that plan is amended by Developer from time to time, subject to Village approval. Minor changes from said approved Grading Plan, where these changes do not violate the purpose, spirit and intent of said approved Grading Plan, shall be reviewed and may, if for good and sufficient reasons, be approved by the Architectural Control Committee and the Village; in all other cases the approved grades shall be strictly adhered to. Lot Owners shall be held responsible for any violation that will cause additional expense to Developer or any other Owner to correct any grading problems.

3.7.5 Upon the approval of building grades by the Architectural Control Committee, the applicant shall file the approved Lot Grading Plan with the Village for its review and approval prior to obtaining any permits or commencing any grading.

3.7.6 Any excess fill on any Lot shall be hauled, at the Lot Owner’s cost, to a location off of the Property. Where fill is necessary on a Lot to obtain the proper topography and finished ground elevation, it shall be ground fill free of asphaltic and building waste material and shall not contain noxious materials that will give off odors of any kind, and dumping of fill materials shall be leveled immediately after completion of the building. Said fill shall also be subject to an erosion control permit issued by the Village.

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3.7.7 No satellite receiver dishes shall be allowed or installed on any Lot except satellite receiver dishes which: (a) have a diameter of twenty-four (24) inches or less, and (b) are installed on a Building. All satellite receiver dishes of twenty-four (24) inches or less must receive Architectural Control Committee approval. The Architectural Control Committee satellite review and authority will include the dish size, the location of the dish on the property and the screening either necessary or allowed.

3.7.8 No external antennas, including radio or television towers of any type or for any purpose, shall be permitted on any Lot at any time.

3.7.9 No above-ground swimming pool shall be permitted on any Lot at any time. An above-ground pool shall mean a pool the vertical sides of which extend above the grade of the Lot in question by more than one (1) foot. Wrought iron safety fences, six feet in height, are required around any below grade swimming pool(s), and shall, in all respects, conform to the rules and regulations and ordinances established for the same by the Village and shall require the specific written approval of the Architectural Control Committee. Notwithstanding anything to the contrary in this Section 3.7.9, no swimming pool otherwise permitted hereunder shall be installed on Lot Nos. 34, 35, 38, 107, 112, 135, 136, 157, 158, 170, 171, 185, 186, 198, 199 or 210, unless the front of the dwelling on any such Lot faces Main St. (with the driveway access on a side street).

3.7.10 No fences of any kind shall be permitted in the Street Yard of any Lot at any time. No chain-link, privacy or stockade fencing shall be permitted on any Lot. In all cases, the finished (“**good**”) side of the fence shall face the adjacent Lot(s). All fences shall be of the “**see-through**” variety (by way of example, but not of limitation, wrought iron, picket, etc.). Except for fences around swimming pools as required under Section 3.7.9 hereof, no fence above four (4) feet shall be permitted in any part of the Lot.

3.7.11 No detached accessory buildings of any kind shall be permitted on any Lot at any time, including without limitation, additional detached garages, storage sheds or pool houses.

3.7.12 It shall be the responsibility of each Lot Owner to remove all debris caused by any and all construction work occurring on his Lot. No Lot Owner shall knowingly allow disposal of any waste building material, tree stumps, branches, tree trunks, or other materials on any Lot, Outlot or Common Area. This responsibility shall also apply to the street(s) abutting said Lot.

3.7.13 In order to maintain uniformity among the Lots and improvements thereon, permanent and uniform lamp posts must be purchased from Developer or a supplier designated by Developer. Each Lot Owner is responsible for installation of said uniform lamp post unit in locations as directed by the Developer at the time of occupancy of the home at Lot Owner’s cost. Until the installation of permanent mail/newspaper units by the Developer, the Developer shall provide temporary mail and newspaper boxes, at a common location as directed by the U. S. Postal Service, for Lots on which dwellings have been constructed, and shall have the right to charge each individual Lot Owner for the cost of such temporary and permanent mail/newspaper unit on such Lot Owner’s Lots.

3.8 Completion. All construction of dwellings and incidental structures shall be completed within one year from date of commencement of construction. Pavement of driveways, construction of walkways, landscaping shall be completed within one year from issuance of an occupancy permit from the Village (which may be communicated by the Village orally prior to the issuance of a formal written permit).

3.9 Easements.

3.9.1 Easements affecting the Property are recorded on the Subdivision Plat in the Office of the Recorder of Deeds. Each Lot shall be subject to any easement granted or hereafter to be granted and/or retained) by Developer or its successors and assigns to the Village or public or semi-public utility companies, for the erection, construction and maintenance of all poles, wires, pipes and conduits for the transmission of electricity, cable telecommunications, telephone and for other purposes, and for sanitary sewers, storm water management, storm water drains, gas mains, water pipes and mains, and similar services, and for performing any public or quasi-public utility functions that Developer or its successors and assigns may deem fit and proper for the improvement and benefit of the Property and for any other purpose as set forth in dedications and restrictive covenants on the Subdivision Plat. The Owner of any Lot on which such easement area(s) are located may use such areas, together with the area, if any, between the roadway and their Lot, for grass, plantings, driveways and other such uses as are described on the Subdivision Plat and shall otherwise care for and maintain such area provided such uses shall not interfere with the improvements, their uses and purposes, and the uses and purposes of the Village; nor shall any improvement be placed within such areas without the prior written consent of the Developer, Village and/or any other party having an interest in the respective easement area. Without limiting the generality of the foregoing provisions of this Section 3.9.1, the Association and the Lot Owners are hereby specifically put on notice that pursuant to the Easements on the Subdivision Plat, any utility company which has installed a utility in the dedicated utility easements areas shown on the Subdivision Plat shall have the right to trim or cut down trees, bushes, branches and roots in the dedicated utility easement areas as reasonably required so as to not interfere with the utility and communication grantees' use of the easement areas.

The minimum setback, Street Yard, shore yard, side yard, rear yard, wetland yard and on other such areas which are shown on the Subdivision Plat ("**Setback Areas**") are and shall be reserved for the use of non-exclusive easements for utilities serving, in whole or in part, the Property or any Lot or Outlot located therein or neighboring properties. By accepting title to a Lot and if not delineated on the Subdivision Plat, each Owner hereby agrees that such Setback Areas may be subjected to easements for utility lines for electricity, sewer, water, storm sewer, gas, telephone, cable television or other similar utilities. Within fifteen (15) days after written request therefor by the Developer, or, after creation of the Association as provided herein, each Owner, if necessary and if not previously obtained, shall grant specific easements (and cause their lenders to agree to non-disturbance of such easements) upon such terms as may be reasonably requested. No structures or other improvements may be constructed in the Setback Areas except landscaping in accordance with approved landscaping

plans or as otherwise specifically permitted by the Architectural Control Committee and subject to any additional restrictions as set forth in the Subdivision Plat or the Village's ordinance and regulations pertaining to vision triangles.

3.9.2 An Entrance Monument (including related signage, landscaping and lighting, all of which are included within the term "**Entrance Monument**") may be, in Developers discretion, located on Outlot 6. The Entrance Monument shall be the property of the Association upon conveyance from Developer as provided in Article V herein. Developer hereby creates and reserves for itself and the Village, easements to install and maintain the Entrance Monument and for entry upon Outlot 6 to the extent necessary for maintenance, repair and replacement of such facilities. The Entrance Monument and its related landscaping and lighting elements shall remain the property of the Association. Notwithstanding such easements and dedications, the Village shall have no obligations to exercise its rights with respect to the above-mentioned areas. The obligations contained within this section and as imposed by the Subdivision Plat shall run with the land, shall be binding upon the Association, its successors, assigns and successors in title, and shall benefit and be enforceable by the Village and the Developer. The Developer, its successors, assigns and successors-in-title thereof shall be relieved of any maintenance obligations they may have, at such time as all improvements have been initially installed to the satisfaction of the Village.

3.9.3 The southerly fifty (50) feet of the Lots abutting the north side of State Highway 165 (including, but not limited to, Outlot 6) is designated as a Dedicated Signage, Landscaping, Access and Maintenance Easement Area and a Vehicular Non-Access Area, all as shown on the Subdivision Plat. An easement coextensive with these areas and contained on the above-mentioned Lots (all as shown on the Subdivision Plat) has been dedicated, given, granted and conveyed, to the Association for purpose of access to and maintenance of such areas which are to be used for the planting and installing of trees, shrubs and other landscape materials and all related ingress and egress, grading, replacement, alteration and maintenance activities. These easements shall be exclusive except for the coextensive easements granted on the Subdivision Plat and other future, roadway, street, driveway or other such use as approved by the Village. These areas within the Property shall be graded by Developer with a berm of varying heights across the Restricted Planting, Landscape and Vehicle Non-Access Area (except that there may not be a berm in Outlot 6), and shall be landscaped in accordance with the Master Landscaping Plan by the Developer (the Master Landscaping Plan is on file with the Village and is made a part of this Declaration); however the failure of the Developer to do so shall not relieve the Association of the obligations imposed by this covenant set forth herein and as also contained on the Subdivision Plat. Upon completion of the installation of trees, shrubs and other landscaping materials, no vehicular access through or over such area shall be permitted except as permitted by the Village for roadway, street, driveway or other such uses as agreed upon by the Village and Developer. After the trees, shrubs and other landscaping materials have been planted and installed in such areas, the Association shall be responsible for the maintenance and planting of the portion of any Lot or Outlot that falls within said 50-foot Landscape, Access and Maintenance Easement Area (which maintenance shall include without limitation and as needed, watering, pruning, trimming, cutting, re-staking, placing mulch around the trees, weeding to prevent

nuisance conditions, mowing grass, maintaining and repairing any underground irrigation systems which may be required by the Village, removing trash and debris, trimming trees and shrubs and replacing dead or dying plant materials) in accordance with the Master Landscaping Plan as an aesthetically pleasing landscaped screening area. The Association and its Members shall be bound by the above-mentioned covenants and the easements, dedications and restrictive covenants as are contained in the Subdivision Plat. Notwithstanding such easements and dedications, the Village shall have no obligations to exercise its rights with respect to the above-mentioned areas. The obligations contained within this section and as imposed by the Subdivision Plat shall run with the land, shall be binding upon the Developer, its successors, assigns and successors in title, and shall benefit and be enforceable by the Village and the Association. The Developer, its successors, assigns and successors-in-title thereof shall be relieved of any maintenance obligations they may have except in its or their capacity as Owner of any such Lots or portion thereof, at such time as all improvements have been initially installed to the satisfaction of the Village.

The Owners of the Lots abutting the north side of State Highway 165 may install and maintain additional landscaping on the north sides of the berm created within the Restricted Planting, Landscape and Vehicle Non-Access Area on their Lots, provided that the Lot Owner shall be solely responsible for maintaining landscaping not originally placed by Developer or the Association. Prior to any additional landscaping on such berm, an Owner must have the landscape plan approved by the Architectural Control Committee and the Village.

3.9.4 Developer has dedicated, given, granted and conveyed to the Village public easements of varying widths along the street corners of those Outlots shown on the Subdivision Plat and described thereon as “**Vision Corner Easements.**” Such easements shall restrict the use of the affected portions of said Lots, it being expressly intended that the easements shall constitute a restriction for the benefit of the public to enhance visibility at the corners of the Property from adjacent right-of way. In the easement areas, nothing above a height above two (2) feet above ground surface may be grown, stored, or erected. If any Owner fails to maintain the portion of their Lot subject to a Vision Corner Easement in accordance with this section, the Association shall perform any necessary maintenance and repair and the cost shall be charged to such Owner as a special assessment and shall accrue interest at the rate of five percent (5%) per year above the “**prime rate**” as announced by published in the Money Rates section of the Wall Street Journal (the “**Prime Rate**”) if not paid in full within fifteen (15) days after notice to pay.

3.9.5 The Developer has dedicated, granted and conveyed to the Association an easement to enter upon any Lot, at reasonable notice to the Owner, for the purpose of repairing, maintaining, renewing, or reconstructing any utilities, facilities, detention and/or retention areas, drainage systems, storm and sanitary sewer and water systems, impoundments or other improvements which benefit other Outlots, Lots or the development as a whole, in addition to benefiting such Lot.

3.10 Preservation Areas.

3.10.1 Wetland Protection Area – Outlot 6: The fee interest in the area shown on Outlot 6 has been dedicated, given, granted and conveyed, by Developer to the Association. Outlot 6 is subject to the easements, dedications and to the restrictive covenants imposed by the Subdivision Plat. Notwithstanding such easements and dedications, the Village shall have no obligation to exercise its rights with respect to the above mentioned Outlot; provided, however, the Village shall be bound to perform those duties which are expressly set forth herein. The Developer shall be initially responsible for completing all related construction, installation, necessary repairs, alterations, landscaping and all required maintenance to Outlot 6. The Dedicated Wetland Protection Area on Outlot 6 as shown on the Subdivision Plat shall be preserved, protected and maintained as a wetland. No filling or other activity or condition detrimental to their function as a wetland shall occur or exist within such areas or on the surrounding lands without the written approval of Developer and the Village. From time to time in the Village's discretion, the Village shall have the right to inspect such areas. The obligations contained within this section and as imposed by the Subdivision Plat shall run with the land, shall be binding upon Developer, its successors, assigns and successors-in-title, and shall benefit and be enforceable by the Village, Developer and the Association. Developer, its successors, assigns and successors-in-title thereof shall be relieved of any preservation, protection or maintenance obligations they may have at such time as all initial improvements have been installed thereon to the satisfaction of the Village and Developer has transferred responsibility to the Association. The Association and its Members shall be bound by the above-mentioned covenants and such similar covenants as are contained in Subdivision Plat.

3.10.2 Stormwater Management, Access and Maintenance Areas – Outlots 4, 6, 8 and 10: The fee interest in Outlots 4, 6, 8 and 10 have been dedicated by Developer to the Association. Outlots 4, 6, 8 and 10 are subject to the easements, dedications and restrictive covenants imposed by the Subdivision Plat. Notwithstanding such easements and dedications, the Village shall have no obligation to exercise its rights with respect to the above mentioned Outlots, provided, however, that the Village shall perform those duties which are expressly set forth herein. The Developer shall initially be responsible for completing all related construction, installation, necessary repairs, alterations, landscaping and all required maintenance to these Outlots. All stormwater detention and/or retention areas as shown on the Subdivision Plat shall be preserved, protected and maintained as stormwater detention and/or retention basins. No filling or other activity or condition detrimental to their function as a detention and/or retention pond(s) shall occur or exist within such areas or on the surrounding lands without the written approval of Developer and Village. From time to time in the Village's discretion, the Village shall have the right to inspect such areas. The obligations contained within this section and as imposed by the Subdivision Plat shall run with the land, shall be binding upon Developer, its successors, assigns and successors-in-title, and shall benefit and be enforceable by the Village, Developer and the Association. Developer, its successors, assigns and successors-in-title thereof shall be relieved of any preservation, protection or maintenance obligations they may have at such time as all initial improvements have

been installed thereon to the satisfaction of the Village and responsibility has been transferred by the Developer to the Association. The Association shall be bound by the above-mentioned covenants and such similar covenants as are contained in Subdivision Plat.

The Owners of the Lots shall be responsible for and share in the costs of maintaining any drainage-ways and above-ground improvements within such drainage-ways (storm pipes, catch basins, grates, etc.) which are contained along shared property lines. Such maintenance shall include as needed, seeding or sodding, removing of trash, debris, leaves and brush, mowing and weeding to prevent nuisance conditions. No driveways, fences, or structures shall be erected within the drainage easement which blocks, diverts or reroutes the drainage flow or which might interfere with the Village's rights, unless express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village. Such areas and/or improvements that are contained entirely within one Lot shall be the sole responsibility of that Lot Owner.

The maintenance, repair and reconstruction, if necessary, of the storm sewers or other below-ground stormwater-related improvements located on any Outlot, whether such Outlot is owned by the Village or the Association, and storm outfalls into any Outlot, whether owned by the Village or the Association, shall be the responsibility of the Village. In addition, the Village shall be responsible for the following, as needed, in or on the drainage-ways and improvements on any Lot or Outlot: grading, topsoiling, maintaining erosion control methods to protect the drainageways, ditching to reestablish design capacity and clearing and repairing catch basin structures.

3.10.3 Future Park and Open Space Access and Maintenance Area - Outlots 4 and 6: The fee interest in Outlots 4 and 6 has been dedicated, given, granted and conveyed, by the Developer to the Association. Outlots 4 and 6 shall be subject to the easements, dedications and to the restrictive covenants imposed by the Subdivision Plat. The Association shall be responsible for completing all related construction, installation, necessary repairs, alterations, landscaping and all required maintenance to these Outlots. Any Park and Open Space Preservation Areas as shown on the Subdivision Plat shall be preserved, protected and maintained as such. No activity or condition detrimental to their function as Park and Open Space shall occur or exist within such Outlots without the written approval of the Village. The obligations contained within this section and as imposed by the addition to the Subdivision Plat shall run with the land, shall be binding upon Developer, its successors, assigns and successors-in-title, and shall benefit and be enforceable by the Association and the Village. Developer, its successors, assigns and successors-in-title thereof shall be relieved of any preservation, protection or maintenance obligations they may have at such time as all initial improvements have been installed to the satisfaction of the Village and responsibility therefore has been transferred by the Developer to the Association. The Association shall be bound by the above-mentioned covenants and such similar covenants as are contained in the addition to the Subdivision Plat.

3.11 Zoning Laws, Etc. In addition to the provisions contained within this Declaration, all Lots and improvements thereon shall be subject to the Village ordinances and applicable

state and federal laws, as may be amended from time to time (hereinafter collectively referred to as "**Laws**"). No Lot shall be further divided or combined without the approval of the Village. The requirements under the Village ordinances are not stated herein and therefore, it shall be the sole responsibility of every Owner to understand and insure compliance with the Village ordinances as the same may be amended from time to time. In the event of a conflict between a provision of this Declaration, the Subdivision Plat any Village ordinance, the strictest provision shall control. Failure to mention a requirement, with respect to any Lot or other necessary approval in this Declaration shall not imply that no such requirement exists with the Village and shall not constitute a waiver of such Village requirement and/or approval.

3.12 Landscape. All plans for dwellings shall include a landscape plan which shall be subject to the written approval of the Architectural Control Committee prior to commencing construction of the dwelling. Each and every Owner of any Lot shall be responsible for the costs of installing the required landscaping on his or her Lot and in accordance with the Landscape Standards approved by the Architectural Control Committee in conjunction with the construction of the dwelling on the Lot. The landscape plan shall include, but not be limited to, plant location, common and botanical names of plant materials, planting size, root condition, and quantity of all plant material. The plan shall also show all ground cover, including size and caliper of plant materials, mulch areas, landscape, construction materials and construction details. The landscape plan may be submitted for approval subsequent to submission of the building plans for the dwelling. Such landscape plan shall include driveway, deck, patio, sidewalk and plantings such that a pleasing park-like appearance shall ultimately be accomplished in the Property and a uniform line of planting is avoided. Landscape planting for any dwelling as approved by the Architectural Control Committee shall be completed within one year from the date of issuance of an occupancy permit by the Village and shall be properly maintained thereafter. In the event the landscaping is not maintained properly, in the opinion of the Architectural Control Committee, upon notification, the Owner of the Lot shall take adequate measures to properly maintain the landscaping. Refusal to comply with the maintenance requirement shall be considered a violation of Section 3.13 of this Declaration and shall be subject to assessment as provided in Article VI and enforcement pursuant to Article VII. Alterations to the approved landscape plan other than those which are minor in nature (by way of example, substitution of plant species of similar height and width) shall be subject to the approval of the Architectural Control Committee. Except for removal of dead or diseased plant materials which are replaced by the same or similar plant species, no trees, landscaping, or other plantings existing on a Lot, except those in the location of the proposed dwelling, patio, walks and driveways, shall be altered or removed without prior written approval of the Architectural Control Committee.

3.13 Nuisances, Etc. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become a nuisance to the neighborhood. Trash, garbage or other wastes shall not be kept except in sanitary containers and all such materials or other equipment for disposal of same shall be properly screened from public view. Outside incinerators are not permitted. No person shall kindle, start, maintain or conduct outdoor burning or open fires, including but not limited to, the burning of trash, paper, cardboard, leaves, grass, other yard waste or items that emit noxious or hazardous smoke as determined by the Architectural Control Committee except a fire for outdoor cooking or recreation. The fire for cooking or recreation shall be in a grill, fireplace or other equipment

specifically designed for outdoor residential uses. Paper or cardboard may be used as a starting device but not as the primary component to burn.

No vehicle (including, without limitation recreational type vehicles such as snowmobiles or all-terrain vehicles), truck, trailer, tent, shack, garage, barn or other outbuilding or living quarters of a temporary character shall be permitted on any Lot at any time.

There shall be no outside parking of boats or recreational type vehicles, including but not limited to snowmobiles or all-terrain vehicles; these must be stored in garages. No trucks, buses or vehicles other than private passenger cars or similar private vehicles shall be parked in private driveways or on any Lot for purposes other than in the normal course of construction or for services rendered to a dwelling or Lot. No vehicles shall be continuously parked on the streets or roadways for more than forty-eight (48) hours, but shall be parked on the driveway of the Lot or in the private garage.

No snowmobiles, all-terrain vehicles or other similar vehicles, or similar means of transportation, shall be operated within the Property at any time.

3.14 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that up to two (2) dogs, three (3) cats and an unlimited number of other small household pets (such as canaries or parakeets) may be kept in a manner which will not disturb the high type and quality of life and the environment of the Property provided that no animals shall be kept, bred or maintained for any commercial purposes. Dog runs and outside dog houses are prohibited.

3.15 [Intentionally omitted.]

3.16 Garages: Parking.

3.16.1 Each Lot shall have a private enclosed garage (attached to the dwelling) for on-site storage of not less than two automobiles for each single-family dwelling built upon such Lot, to be connected to the street by a properly surfaced asphalt, concrete or brick driveway (which driveway shall be installed and completed within one year from the date of occupancy of the dwelling).

3.16.2 The location of garage door(s), whether front or side entry, and the location of any driveway and its intersection with the street shall be subject to the approval of the Architectural Control Committee.

3.17 Driveway Access. All driveways shall be located a minimum of five (5) feet from the side property line. Driveway access is limited on all corner lots per the Subdivision Plat. Neither Owners nor their contractors shall saw, cut or otherwise alter any portion of the mountable curb prior to, upon, or after installation of the driveway. The locations of all driveways and curb-cuts shall be subject to the approval of the Architectural Control Committee.

3.18 Roofing Material and Construction.

3.18.1 All dwellings proposed to be erected, altered or modified shall specify on the construction plans dwelling materials acceptable in quality to the Architectural Control Committee and the construction shall be carried out with such roofing materials as approved by the Architectural Control Committee.

3.18.2 All dwellings shall have pitched roofs with a pitch to be approved by the Architectural Control Committee in conformity with village requirements.

3.19 Architectural Design Philosophy; Exterior Building Materials and Dwelling Quality.

3.19.1 To ensure the harmonious appearance of the development, the Architectural Control Committee shall adhere to the following design objectives in reviewing architectural plans for dwellings: The architectural design of dwellings should create visual variety, and at the same time, promote an integrated character for the neighborhood. Providing variety with continuity to avoid monotony is the objective. Dwellings within the development should be of a similar type and size and be designed so that streetscapes are unified. The general architectural vernacular for the Village Green Heights single family development shall be traditional, using traditional building materials

3.19.2 All dwellings proposed to be erected, altered or modified shall, on the construction plans, denote material(s) proposed to be used. The front façade of each dwelling (except for the trim) shall be at least sixty-five percent (65%) brick, stone or similar masonry product. All-wood facades shall be permitted when the architectural vernacular has traditionally employed such material (by way of example, wood clapboard façade on a Georgian style dwelling). The Architectural Control Committee may make exceptions to the restrictions on façade materials where design elements make the use of such materials appropriate (by way of example, vinyl siding may be permitted on the façade when the dwelling is “**farm house**” style with a wrap-around porch).

3.19.3 The design, layout and exterior appearance of each dwelling proposed to be erected, altered or modified shall be such that, in the opinion of the Architectural Control Committee at the time of approving of the building plans, the dwelling will be of a high quality and will have no substantial adverse effect upon property values.

3.19.4 The proposed color schemes for a dwelling to be erected, altered, modified or repainted with a new color scheme shall be submitted to the Architectural Control Committee for approval prior to painting or staining. It shall be the aim of the Committee to harmonize colors for not only the dwelling proposed, but to consider the effect of these colors and materials as they relate to other dwellings.

3.19.5 Hung bays, shall not be permitted on first floor at any dwelling, except for boxed, bow or bay windows.

3.19.6 All dwellings shall have at least one fireplace.

3.20 Initial Construction of Common Areas.

3.20.1 Notwithstanding anything contained herein to the contrary, Developer shall be responsible for the initial construction, installation and landscaping of the Common Areas as described in Section 3.3 hereof.

3.20.2 Upon the transfer by the Developer to the Association of the following responsibilities, the Association shall have the obligation for the following:

(a) maintaining the drainage, maintenance and access easement areas located in the Common Areas in a functional, neat and nuisance free condition to handle stormwater and drainage in the Subdivision, which maintenance shall include, as needed, seeding or sodding, removing of trash, debris, leaves and brush, mowing and weeding to prevent nuisance conditions. No driveways, fences, or structures shall be erected within the drainage easement which blocks, diverts or re-routes the drainage flow or which might interfere with the Village's rights, unless express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village.

(b) maintaining: (i) the cul-de-sac islands in the Dedicated Public Streets located in the Property, (ii) the median strips on Main Street (extended east of 47th Ave. to the eastern boundary of Outlot 3); (iii) the landscaping island in the intersection of 47th Ave. and 104th St.; and (iv) the boulevard strip in Cooper Rd., in a clean, mowed, maintained and weed-free condition. Such maintenance shall include without limitation and as needed, seeding; mowing; weeding; planting; watering; maintaining and repairing any underground irrigation system installed by the Developer in the Common Areas; and removing of trash, debris, leaves and brush in order to prevent a nuisance condition. No driveways, signage, parking areas, structures or fences shall be erected within the cul-de-sac and boulevard islands and median strips which might interfere with the Village' s rights, unless express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village.

(c) maintaining the above-ground drainage and detention and/or retention basins, maintenance and access easement areas in Outlots 4, 6, 8 and 10 (other than pipes, concrete outlets and other engineered “hard” structures and components, which shall be the responsibility of the Village) in a functional, neat and nuisance free condition to handle stormwater and drainage in or on the Property. Such maintenance shall include, without limitation and as needed, grading, topsoiling, seeding or sodding, maintaining erosion control methods to protect the drainageways; ditching to reestablish design capacity; removing of trash, debris, leaves and brush; mowing; and weeding to prevent nuisance conditions. No driveways, fences, signage, lighting or structures shall be erected within the outlet drainage easement which blocks, diverts or re-routes the drainage flow or which might interfere with the Village's rights, unless express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village.

(d) maintaining the Restricted Woodland Protection and Preservation Areas, if any, located on Outlots 4 or 6 as shown on the Subdivision Plat. No trees larger than eight (8) inches shall be cut or removed unless they are decayed and no digging, dredging, filling, grading, dumping or other land disturbance shall be permitted in such area, without the prior approval of the Village and subject to any conditions as may be imposed by the Village.

(e) maintaining the Restricted Wetland Protection and Preservation Areas, if any, on Outlots 4 and 6, shown on the Subdivision Plat. The Wetland Protection Areas shall be protected and maintained as a wetland and no digging, dredging, filling, grading, dumping or other land disturbance shall be permitted in such area, without the prior approval of the Village and the Wisconsin Department of Natural Resources (WI DNR) and subject to any conditions as may be imposed by the Village or the WI DNR.

(f) (i) the clearance (including snow and ice removal), maintenance, repair and replacement of any sidewalks, within the non-roadway areas of the Dedicated Public Streets shown on the Subdivision Plat, in accordance with Village-approved plans and specifications; (ii) the construction, installation, repair, alteration, replacement and maintenance of the mailboxes located in one or more of the easement areas; and (iii) payment of the costs of electricity for street lights (but not the repair, maintenance or replacement thereof or the cost thereof, which will be the responsibility of the Village after the public street improvements required by the Village to be constructed by Developer have been constructed by it and inspected by, dedicated to and accepted by the Village).

(g) maintaining, repairing and replacing the Entrance Monument and their related landscaping located on Outlot 6.

(h) maintaining and replacing the lighting, furniture and equipment, if any, planting and installing landscape elements and otherwise maintaining parks and open space on Outlots 4 and 6 on the Subdivision Plat, in a neat and nuisance free condition. Such maintenance shall include, without limitation and as needed, removing of trash and debris, mowing; weeding to prevent nuisance condition.

To the extent that the Village performs any of the responsibilities of the Association set forth in this Section 3.20.2, the Association shall be liable for any costs which may be incurred by the Village, which the Village may recover from the Association as special assessments or special charges under Section 66.0627 (or successors or similar provisions) of the Wisconsin Statutes or otherwise according to law. The obligations contained within this Section 3.20.2 and as imposed by the Subdivision Plat shall run with the land, shall be binding upon Developer, its successors, assigns and successors in title, and shall benefit and be enforceable by the Village and the Association.

3.20.3 The Owner of the Lot shall be responsible for maintaining the street trees and grassy areas planted in the Dedicated Public Streets (right-of-way) abutting his or

her Lot. Such maintenance shall include, without limitation and as needed, watering, pruning, trimming, cutting, re-staking, placing mulch around the trees and weeding to prevent nuisance conditions. No driveways, fences, or structures shall be erected which damages the trees or might interfere with the Village's rights, nor may any signage, banners festoons or the like be attached or affixed to the public street trees, unless in any of the above cases, express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village. Subject to any warranty that may have been given by the Developer, any street trees, which die or are damaged by vandalism or other calamity, shall be removed and replaced by the Owner of the adjacent lot within sixty (60) days of its removal, weather permitting.

The Village shall have no maintenance obligations with respect to the street trees or other planting materials. To the extent that the Village performs any such street tree or Street Yard maintenance activities which are the responsibility of a Lot Owner, such Lot Owner shall be liable for any costs which may be incurred by the Village, which the Village may recover from such Lot Owner as special assessments or special charges under Section 66.0627 (or successors or similar provisions) of the Wisconsin Statutes or otherwise according to law. Unless the Village exercises the rights granted to it in the dedications statement on the Subdivision Plat with respect to the street trees, the Village shall have no obligation to do anything pursuant to its rights.

3.21 Prohibition of Destroying or Removing Trees in the Woodland Preservation and Protection Easement Areas. Neither the Association no Lot Owner or any invitee of either thereof shall remove, destroy, mutilate or otherwise harm any tree in any of the areas designated on the Subdivision Plat as Woodland Preservation and Protection Easement Areas, including but not limited to Lots 1 an 2 and Outlots 3, 7 and 9. Penalties for any violation of this Section 3.21 are set forth in Section 7.7 hereof.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

4.1. Incorporation of the Association. The Developer has caused there to be incorporated a Wisconsin not-for-profit corporation known as the “**Village Green Heights Homeowners’ Association, Inc.,**” which corporation shall be and act in the capacity of the Association.

4.2. Turnover Date. The Developer shall, through the Board appointed by it in accordance with Section 4.3 hereof, exercise control over all Association matters, until the first to occur of the following: (a) the date which is ten (10) years from the date of the sale of the first Lot to an Owner other than an assignee of or successor in interest to Developer as provided in Section 4.2 hereof, (b) the date on which the Developer (or an assignee of or successor in interest to Developer as provided in Section 4.2 hereof) ceases to be the Owner of at least twenty-five percent (25%) of the Lots, or (c) the date Developer elects voluntarily to turn over to the Owners the authority to appoint the Board. The date upon which the authority to appoint the Board passes to the Owners is hereinafter referred to as the “**Turnover Date.**” If any of the following have not then already occurred, on the Turnover Date: (i) the Association shall accept

the Common Areas which were dedicated on the Plat of Subdivision to the Association, and (ii) the Developer shall transfer responsibility to the Association, and the Association shall accept such responsibility, for the maintenance and other items described in the Subdivision Plat or elsewhere herein as being the responsibility of the Association's after such transfer of responsibility. After the Turnover Date the Developer shall no longer be liable under this Declaration except in its capacity as an Owner.

4.3 Membership. Each Owner shall be a Member of the Association. A Member's membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot. Every Member of the Association shall have one vote in the Association for each Lot owned by the Member. When more than one person or entity holds an interest in a Lot, the vote shall be exercised as set forth in the Bylaws. Until the Turnover Date, the authority and functions of the Board of Directors and the Architectural Control Committee shall remain in and be exercised solely by Developer or its successors and assigns. Until the Turnover Date, the Developer may, from time to time, by written notice to the Association, elect to relinquish its right to appoint any one or more directors and continue to exercise its right to appoint the remaining directors of the Board. No later than forty-five (45) days after the Turnover Date, the Developer shall convene a meeting of the Members to elect a new Board of Directors. The Developer, shall be entitled to vote at such meeting, in its capacity as owner of any Lots; provided, however, that the Board of Directors elected at such meeting shall be comprised of a majority of Owners other than the Developer. If the Developer, after making reasonable effort to do so, is unable to convene a meeting of the Members at which a quorum is present, the Developer may resign as Developer after thirty (30) days notice to the other Owners. If the Developer fails to timely convene such meeting, the Owners holding ten percent (10%) of the interest in the Association may call a meeting of the Members to elect a new Board of Directors. After the election of a Board of Directors at the first annual meeting at which all of the Directors are elected by the Members, the Board of Directors shall be elected by the Members at each annual meeting of Members. No more than one member of such elected Board of Directors shall be a non-Owner; provided, however, that in any case where the Owner is an entity other than a natural person, an officer or employee of such Owner may be a Board Member, and shall not, for purposes of this Section 4.3, be considered to be a non-Owner. Each Board Member shall serve for one (1) year or until his or her successor has been duly elected. The members of the Board of Directors shall not be entitled to any compensation for their services as such members. Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after six (6) months from the date of its execution.

4.4 Liability of Directors and Officers. Neither the Directors nor the Officers shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Directors or Officers except for any acts or omissions found by a court to constitute gross negligence or fraud, or, with respect to any criminal action or proceeding, such Director or Officer had no reasonable cause to believe that his conduct was unlawful. The Association shall indemnify and hold harmless the Directors and Officers, their heirs and legal representatives, against all contractual and other liabilities to others arising out of contracts made by or other acts of the Directors or Officers unless a court of competent jurisdiction shall have found such contract or act was made fraudulently or with willful misfeasance or gross negligence, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or plea of nolo contendere or its

equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner that he reasonably believed to be in or not opposed to the best interests of the Association. Notwithstanding the foregoing, no indemnity shall be operative with respect to any matter settled or compromised, and, in the opinion of the independent counsel selected by or in a manner determined by the Board, there is clear and convincing evidence for such person being adjudged liable for gross negligence or fraud in the performance of his or her duties as such Director or Officer.

Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding, as authorized by the Board in the specific case, on receipt of an undertaking by or on behalf of the Director or the Officer to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article. The burden of the foregoing indemnity shall be borne by the Owners at the time such loss, damage, cost or expense is incurred in the same proportion as assessments are borne by the Owners as provided in Article VI hereof. The sums necessary to discharge the obligations of the Association under this Article shall be Common Expenses.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of the Members or disinterested Directors, or otherwise, both as to action in his or her official capacity and as to action in other capacity while holding such office, and shall continue as to a person who has ceased to be a director or an Officer. Directors appointed by the Developer, and Officers elected by Directors appointed by the Developer, shall be entitled to all the protections of this Article. Nothing in this Section 4.4 shall be construed as a limitation upon any right for indemnification contained in Sections 181.0855, 181.0871, 181.0872, 181.0873, 181.0877, 181.0879 or 181.0881 of the Wisconsin Statutes, and the directors, members and officers, their heirs and legal representatives shall be entitled to be indemnified against all claims and liabilities to the fullest extent permitted by Sections 181.0855, 181.0871, 181.0872, 181.0873, 181.0877, 181.0879 and 181.0881 of the Wisconsin Statutes.

4.5 Bylaws. The Developer has established Bylaws for the Association setting forth in greater specificity, among other things, various procedural requirements for election of members of the Board, voting by the Members and the creation of officers.

ARTICLE V PROPERTY RIGHTS IN THE COMMON AREAS

5.1 Owner's Easement of Enjoyment. Subject to the provisions herein, every Owner shall have a right and easement of benefit and/or enjoyment in and to Outlots 4, 6, 8 and 10 and any Common Areas acquired by the Association which shall be appurtenant to and shall pass with the title to every Lot.

5.2 Title to Common Areas. Title to Outlots 4, 6, 8 and 10 and other Common Areas, if any, has been dedicated to the Association by Developer by virtue of the Subdivision Plat, and shall be hereby deemed to have been , granted, given and conveyed to and accepted

by the Association. Members shall have the rights and obligations imposed by this Declaration with respect to such Common Areas. It is understood that the Entrance Monuments may, in the discretion of Developer, be located on easements for the benefit of the Association, and the Entrance Monuments shall be maintained, operated and administered by the Association.

5.3 Extent of Owner's Easements. The rights and easements of benefit and/or enjoyment created hereby shall be subject to the following:

5.3.1 The right of the Association to dedicate or transfer all or any part of any Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors, provided that no such dedication or transfer, shall be effective unless instruments signed by Members entitled to cast fifty-one (51%) percent of the votes of the membership have been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of such dedication or transfer; and

5.3.2 The right of the Association, but subject to the prior written approval of the Village, to mortgage any or all of the Common Areas and facilities constructed on the Common Areas for the purposes of constructing or maintaining improvements or repair to Association land or facilities pursuant to approval of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a regular meeting of the Members or at a meeting duly called for this purpose.

5.4 Damage or Destruction of Common Areas by Owner. In the event any Common Area or any portion of the water drainage system servicing the Property is damaged or destroyed by an Owner or any of his or her guests, tenants, licensees, agents or members of his family, such Owner hereby authorizes the Association to repair said damaged area; the Association shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association in the discretion of the Association. The amount necessary for such repairs shall be a special assessment upon the Lot of said Owner and shall accrue interest at the annual rate of five percent (5%) above the Prime Rate unless paid in full within fifteen (15) days after notice to pay. Damage not assessable to an Owner hereunder shall be paid by the Association and assessed to all Owners. The foregoing provision applies only to the private improvements and not to the public improvements that are dedicated to the Village. The Village may assess an Owner(s) for the cost to repair any damage to public improvements caused by the negligent or intentional act of such Owner(s).

5.5 Right to Enter and Maintain. The Developer and Association are hereby granted an easement and consequently shall have the right to enter upon any Lot, and the Developer is hereby granted an easement and consequently shall have the right to enter upon Outlots 4, 6, 8 and 10, at reasonable notice to the Owner (or to the Association, in the case of Developer's entry onto an Outlot, the Association), for the purpose of repairing, maintaining, renewing, or reconstructing any utilities, facilities, detention and/or retention areas, drainage systems, storm and sanitary sewer and water systems, impoundments or other improvements which benefit other Lots, Outlots or the development as a whole, in addition to benefiting such Outlot or Lot. In addition, Developer has reserved and granted to the Association pursuant to the Subdivision

Plat an easement and right to enter upon Outlot 7 and Outlot 11 for the purpose of maintaining storm water, drainage, detention and/or retention improvements on Outlots 8 and 10. If such Outlot or Lot contains public utilities or facilities having an area-wide benefit, which are maintained by the Village, the Village, following prior written notification to the Developer, may, if necessary to maintain such facilities in good working order and appearance, enter upon any Lot in order to repair, renew, reconstruct, or maintain such facilities or utilities and may assess the cost, if such cost is not traditionally assumed by the Village and/or prior to acceptance of such public improvements, to the Owners. No prior written notification shall be required for emergency repairs.

5.6 Disclaimer. Developer has conveyed or intends to convey to the Association, and the Association shall accept, such Outlots and other Common Areas as are to be conveyed to the Association “as is” and without warranty, express or implied, of condition, quality of construction, fitness for a particular use or otherwise. The Association shall be responsible for obtaining adequate liability insurance for such Outlots and Common Areas. Developer shall have no liability for damage or injury to any persons or property arising from the existence or use of the Outlots or Common Areas. The Association shall indemnify and hold Developer harmless against any and all claims relating to the Outlots and Common Areas.

ARTICLE VI COVENANT FOR ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments. Developer hereby covenants, and each Owner of any Lot by acceptance of the deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant, assume and agree to pay to the Association: (1) annual general assessments or charges; (2) special assessments for capital improvements and repairs to the drainage systems servicing the Property; (3) special assessments for exterior maintenance to Lots and repairs to Common Areas; and (4) special assessments as provided in Sections 6.3 and 6.4. All such assessments together with interest thereon and costs of collection thereof, including attorney’s fees, shall be (a) a charge on the land and a continuing lien upon the Lot against which such assessment is made and (b) the personal obligation of the person who was the Owner of such property at the time of the assessment.

6.2 Annual General Assessment.

6.2.1 Purpose of Assessment. The annual general assessment levied by the Association each year shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and, in particular, for the improvement, construction, maintenance, policing, preservation and operation of the Common Areas, and Entrance Monuments, in accordance with the requirements set forth herein and those obligations and restrictive covenants set forth herein and on the Subdivision Plat, including but not limited to, the cost of labor, equipment, materials, insurance, management and supervision thereof and fees paid for auditing the books of the Association and for necessary legal services and counsel fees to the Board of Directors.

6.2.2 Determination of the Assessment. Commencing no later than the calendar year in which the first (1st) Lot is sold to an Owner other than an assignee of or a successor in interest to the Developer, the Board of Directors shall prepare and annually submit to the Members a budget of expenses for such calendar year (or remaining portion thereof) for payment of all costs contemplated within the purposes of the annual general assessment described in Section 6.2.1. Upon adoption and approval of the annual budget by a majority of the Members entitled to vote as established by the articles of incorporation of the Association, the Bylaws and by rules validly adopted by resolution of the Board, the Board shall determine the assessment by dividing the amount of the budget among all Lots equally. The rate of assessment shall not be limited by the amounts set forth in Wisconsin Statutes, Section 779.70.

6.2.3 Method of Assessment. The assessment for each Lot shall be levied at the same time once in each year. The Board shall declare the assessments so levied due and payable at any time after thirty (30) days from the date of such levy (with an option for payment in monthly installments if approved by the Board), and the Secretary or other officer shall notify the Owner of every Lot so assessed of the action taken by the Board, the amount of the assessment of each Lot owned by such Owner and the date such assessment becomes due and payable. Such notice shall be mailed to the Owner at last known post office address by United States mail, postage prepaid.

6.2.4 Date of Commencement of Annual General Assessments. Payment of annual general assessments by all Owners shall commence no later than the date of conveyance of the first Lot to an Owner other than a successor in interest to the Developer.

6.2.5 Budget and Assessments for Remainder of the Year in which the Additional Property is Included in the Association. Developer does not anticipate that the inclusion of the Additional Property in the Association will result in additional costs to the Association in the year in which the Effective Date occurs (the "**Transition Year**"), because the Lots and Outlots in the Additional Property will be under construction at Developer's cost. If, however, the Association incurs any cost in connection with the Additional Property during the Transition Year, then, subject to the last sentence of this Section 6.2.5, Developer agrees to reimburse the Association in full for that cost after receipt of reasonable documentation. Notwithstanding Developer's covenant to cover any incremental costs to the Association incurred during the Transition Year from the Additional Property, the Board may call a special meeting of the Board of Directors after the Effective Date for the purpose of considering whether the budget for the remainder of the Transition Year should be revised to take into account additional expenses, if any, projected to be incurred by the Association as a result of adding the Additional Property to the Association. If the Board of Directors determines that a budget revision is required, it shall prepare and submit it to the Members for approval in the same manner as Section 6.2.2 hereof (and for this purpose, the Developer of the Lots in the Additional Property is entitled to cast one vote for each Lot). If the Members approve a revised budget, the Board shall determine the annual assessment for the Transition Year by dividing the amount of the budget by all Lots equally, that is, by 218. The assessment shall become effective as of the Effective Date. Owners of Lots in the Additional Property shall be assessed a fraction of the newly calculated annual assessment, the

numerator of which is the number of days from the Effective Date to December 31, and the denominator of which is 365. The amount assessed against Lots in the Original Property is calculated as the sum of: [(x) the original annual assessment multiplied by a fraction the numerator of which is the number of days from January 1 to the Effective Date and the denominator of which is 365] plus [(y) the newly calculated assessment multiplied by a fraction the numerator of which is the number of days from the Effective Date to December 31, and the denominator of which is 365]. If the amount paid by an Owner of a Lot in the Original Property as the original assessment for the Transition Year is less than the revised assessment, the Lot Owner shall pay the difference within forty-five days after notice from the Association. If the amount paid by an Owner of a Lot in the Original Property as the original assessment for the Transition Year is more than the revised assessment, the Lot Owner shall receive a credit against the assessment for the following calendar year in the amount of the overpayment. If the Board elects to levy an assessment against the Lots in the Additional Property for any portion of the Transition Year, Developer is relieved of its covenant above to cover any incremental costs to the Association incurred during the Transition Year from the Additional Property.

6.3 Special Assessment for Capital Improvement and Repairs to Common Areas. In addition to the annual general assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year and not more than the next two (2) succeeding years for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Areas which are the responsibility of the Association, including fixtures and personal property related thereto, and extraordinary expenses incurred in the maintenance and operation of the Common Areas and facilities.

6.4 Special Assessment for Exterior Maintenance to Lots.

6.4.1 Exterior Maintenance to Lots. In addition to the maintenance upon the Common Areas described in Section 6.3, the Association may, at the request of the Owner of any Lot or in the event the Owner of any Lot fails to maintain the exterior of any buildings or improvements on the Lot or the Lot itself in reasonable condition, provide exterior maintenance upon each Lot as follows: (i) paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, driveways, walks, patios and other exterior improvements; and (ii) lawn cutting, shrub and tree trimming, driveway and walk shoveling and window cleaning. The Association, its agents, contractors and subcontractors, shall have all necessary rights of ingress and egress to and from such Lot, building or improvement with full right to do whatever may be necessary to perform any such maintenance, repair or replacement.

6.4.2 Assessment of Cost. The cost of such exterior maintenance shall be assessed against the Lot upon which such maintenance is performed and if not paid within thirty (30) days of written notice of the amount of such assessment shall accrue interest at the annual rate of five percent (5%) above the Prime Rate. Such special assessment shall constitute a lien and obligation of the Owner and shall become due and payable in all respects as herein provided.

6.5 Method of Special Assessment. The Board of Directors of the Association may call a special meeting of the Members upon at least five (5) days prior written notice of the purpose of making a special assessment. The nature of the proposed special assessment shall be included in the notice. A majority of Members entitled to vote shall constitute a quorum for a special meeting, and a majority of Members entitled to vote who are present at the special meeting shall be required to approve the special assessment.

6.6 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinated to the lien of any first mortgage on the Lot recorded prior to the making of the assessment.

6.7 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein: (i) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (ii) all Common Areas; and (iii) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from the assessments, charges or liens.

6.7 Joint and Several Liability of Grantor and Grantee. Upon any sale, transfer or conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor as provided in this Article up to the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Association setting forth the amount of such unpaid assessments and any such grantee shall not be liable for, nor shall the Lot be conveyed subject to a lien for, any unpaid assessment against the grantor pursuant to this Article in excess of the amount therein set forth. If the Association does not provide such a statement within fifteen (15) business days after the grantee's request, it is barred from claiming under any lien which was not filed prior to the request for the statement against the grantee.

6.8 Interest on Unpaid Assessment. Any assessment under this Article VI which is not paid when due shall thereafter until paid in full bear interest at the rate of five percent (5%) per annum above the Prime Rate or the highest interest rate permitted by law, whichever is lower. In addition to the interest charges, a late charge of up to \$50.00 per day may be imposed by the Board of Directors against an Owner if any balance in common expenses remains unpaid more than thirty (30) days after payment is due.

6.9 Effect of Nonpayment of Assessments: Remedies of the Association. No Owner may waive or otherwise escape liability for assessments by non-use of the Common Areas or abandonment of his or her Lot. If the Association has provided for collection of assessments in installments, upon default on the payment of any one or more installments, the Association may accelerate payment and declare the entire balance of said assessment due and payable in full. If the assessment levied against any Lot remains unpaid for a period of sixty (60) days from the date of levy, then the Board may, in its discretion, file a claim for maintenance lien against such Lot in the office of the Clerk of Circuit Court for Kenosha County within six months from the date of levy. Such claim for lien shall contain a reference to the resolution authorizing such levy and date thereof, the name of the claimant or assignee, the name of the person against whom the

assessment is levied, a description of the Lot and a statement of the amount claimed and shall otherwise comply in form with the provisions of Wisconsin Statutes Section 779.70. Foreclosure of such lien shall be in the manner provided for foreclosure of maintenance liens in said statute or any successor statute.

6.10 Developer Not Responsible for Reserves. Except to the extent that Developer, as an Owner of Lots, is required to pay assessments and a portion of those assessments is used by the Association to fund one or more reserves for capital or other expenses, Developer shall have no responsibility for separately funding or contributing to any capital or other reserve account on behalf of the Association or the Property.

ARTICLE VII ENFORCEMENT

7.1 Right to Enforce. This Declaration and the covenants contained herein and on the Subdivision Plat are enforceable only by Developer and/or the Association and/or the Village or such person or organization specifically designated by Developer, in a document recorded in the office of the Recorder of Deeds, as its assignee for the purpose thereof.

7.2 Manner of Enforcement. This Declaration and the covenants contained herein and on the Subdivision Plat shall be enforceable by Developer and its assigns and/or the Village in any manner provided by law or equity, including but not limited to one or more of the following:

- (a) Injunctive relief;
- (b) Action for specific performance;
- (c) Action for money damages as set forth in this Declaration; and/or
- (d) Performance of these covenants by Developer and/or the Village on behalf of any party in default thereof for more than thirty (30) days, after receipt by such party of notice from Developer or the Village describing such default. In such event the defaulting Owner shall be liable to Developer or the Village for the actual costs (plus fifteen percent (15%) for overhead) related to or in connection with performing these covenants.

7.3 Reimbursement. To the extent that any duty is assigned to the Association pursuant to the Subdivision Plat or this Declaration, and such duty is performed by Developer, Developer shall be entitled to reimbursement from the Association for any loss, cost or expense (including the cost of performance), and such costs may include, by means of illustration and not limitation, the cost of replacing plants during the warranty period which have not been properly maintained by the Association. Any amounts expended by Developer and/or the Village in enforcing these covenants, including reasonable attorney fees, and any amounts expended in curing a default on behalf of any Owner or other party, shall accrue interest at the annual rate of five percent (5%) above the Prime Rate unless paid in full within fifteen (15) days after notice to pay, and shall constitute a lien against the subject real property until such

amounts are reimbursed to Developer and/or the Village, with such lien to be in the nature of a mortgage and enforceable pursuant to the procedures for foreclosure of a mortgage.

7.4 Failure to Enforce Not a Waiver. Failure of Developer or assigns and/or the Village to enforce any provision contained herein shall not be deemed a waiver of the right to enforce these covenants in the event of a subsequent default.

7.5 Right to Enter. Developer and/or the Village shall have the right to enter upon any Lot for the purpose of ascertaining whether the Owner of said Lot is complying with these covenants, and, if Developer and/or the Village so elects under Section 7.2(d), for the purpose of performing obligations hereunder on behalf of a party in default hereof.

7.6 Village Authority. In the event the obligations contained herein and as continued in the Subdivision Plat are not being performed to the satisfaction of the Village, the Village shall have the right, but not the obligation to perform such function and may assess any charges incurred in the performance of such covenants against the Association and/or the Owners, as their respective obligations shall render them liable. Any amounts expended by the Village in enforcing these obligations, including reasonable attorney fees, and any amounts expended in curing a default on behalf of the Association shall be paid by the Association. Any amounts expended by the Village in enforcing these obligations, including reasonable attorney fees, and any amounts expended in curing a default on behalf of any Owner or other party acting by through or under Owner, shall be paid by the Owner. In the event such amounts are not paid, the charges may be levied as a special assessment by the Village in accordance with Wisconsin Statutes.

7.7 Protection of Trees in Dedicated Woodland Protection and Preservation Easement Areas on Adjacent Property. In the event that any Lot Owner or its invitee removes by human tampering (and not by a so-called “**Act of God**”) any tree within the Dedicated Woodland Protection and Preservation Easement Areas on Lots 1 or 2 or Outlots 3, 7 or 9, as shown on the Subdivision Plat or any future condominium plat for Lots 1 or 2 or Outlot 3, in violation of Section 3.21 hereof, the Lot Owner shall be responsible for the cost of replacing such tree as follows:

7.7.1. All replacement trees shall have at least equal shade potential and other comparable characteristics to those of the tree cut or removed.

7.7.2. All replacement trees shall be a minimum of eight (8) feet in height when planted.

7.7.3. No replacement tree shall have a diameter of less than two (2) inches measured six (6) inches above grade.

7.7.4. The diameter of the replacement tree or trees shall be calculated as follows:

(a) if there is a single replacement tree, it shall have one-half (1/2) inch of diameter for each inch of diameter of the tree that was cut or removed.

(b) if there is more than one replacement tree, the diameters of the replacement trees shall have, in the aggregate, one-half (1/2) inch of diameter for each inch of diameter of the tree that was cut or removed. (By way of example, if the cut or removed tree had a diameter of sixteen (16) inches, then the maximum number of replacement trees shall be four (4) trees, each with a diameter of two (2) inches.)

The Association shall be responsible for the selection, acquisition, transporting and planting of all replacement trees pursuant to this Section 7, and shall have the right to charge back to the Lot Owner in violation of this Section 7 for the Association's actual costs (plus fifteen percent (15%) overhead).

ARTICLE VIII GENERAL PROVISIONS

8.1 Term. Unless amended as herein provided, this Declaration shall run with the Property and be binding upon all persons claiming under Developer for a period of fifty (50) years from the date this Declaration is recorded and shall automatically be extended for successive periods of ten (10) years unless, subject to the approval of the Village, an instrument signed by the greater of (i) the Owners of at least seventy-five percent (75%) of the Lots, or (ii) sixty-six and two-thirds percent (66-2/3%) of the Owners, has been recorded, agreeing to terminate this Declaration in whole or in part.

8.2 Amendment. This Declaration may be amended, modified or supplemented at any time by written declaration, executed in such manner as to be recordable, setting forth such change, modification or amendment in the following manner:

8.2.1 The Developer may unilaterally amend, modify or supplement all or any provision of this Declaration by instrument executed solely by Developer until such time as Developer (including any successor Developer) conveys the first (1st) last Lot to another Owner other than an assignee of or successor in interest to the Developer; or

8.2.2 The Association may amend, modify or supplement all or any provision of this Declaration by an affirmative vote of the greater of: (i) the Owners of at least sixty-six and two-thirds percent (66-2/3%) of all the Lots, or (ii) sixty-six and two-thirds percent (66-2/3%) of the Owners;

provided however, that in either case:

(i) no amendment which would materially and adversely affect: (A) the manner in which any Owner's assessment is determined; (B) any approvals or consents already given to any Owner; or affect the right of any mortgage holder, shall be made without the consent of that Owner or mortgage holder;

(ii) all amendments, supplements and modifications must be approved in writing by the Village;

(iii) all amendments, modifications and supplements shall be consistent with the general plan of development embodied in this Declaration; and

(iv) until such time as Developer (including any successor Developer) conveys all but the last Lot to other Owners, all amendments, supplements and modifications must be approved and executed by Developer.

Any amendment, modification or supplement shall become effective only if set forth in writing and executed and acknowledged by each of the consenting Owners and the Developer (if the Developer owns any Lots) and recorded in the Office of the Recorder of Kenosha County, Wisconsin; provided, however, the execution and acknowledgment by each of the consenting Owners shall not be required if the written amendment, modification or supplement contains the signature and acknowledgment of an authorized officer of the Association which states that such amendment, modification, supplement or revocation was approved by the affirmative vote of the greater of (i) Owners of at least sixty-six and two-thirds percent (66-2/3%) of all the Lots, or (ii) sixty-six and two-thirds percent (66-2/3%) of the Owners.

8.3 Notices. Each Owner shall file its correct mailing address with the Association and shall notify the Association promptly in writing of any subsequent change of address. The Association shall maintain a file of Owners' addresses and make it available to appropriate parties. A written or printed notice delivered in person or deposited in the United States Post Office, postage prepaid, and addressed to an Owner at the last address filed by the Owner with the Association shall be sufficient notice to the Owner wherever notices are required in this Declaration, and shall be deemed effective when delivered: (i) in person; (ii) three (3) days after mailing; (iii) by e-mail, where an Owner has consented to e-mail notice in writing (including consent communicated by e-mail).

8.4 Contracts. The Association or the Developer, on behalf of the Association, may enter into agreements with the owners of real estate in the vicinity of the Property (including other real estate owned by the Developer) or condominium associations or homeowners associations of owners of such properties for sharing responsibility, costs and decision-making authority for the maintenance and repair of the Common Areas and any publicly dedicated right-of-way used now or in future by the Owners and the owners of other real estate. Any such agreement shall be in writing and recorded in the Office of the Recorder of Kenosha County, Wisconsin.

8.5 Assignment, Resignation by Developer. For purposes of this Declaration, the conveyance by the Developer of legal title to a portion of the Property to a different entity which shall hold legal title for the benefit of the Developer or in which the Developer is the sole general partner or managing member shall not constitute a sale. Notwithstanding anything herein to the contrary, Developer in its sole discretion may determine, hereby reserve the right to transfer, assign, mortgage or pledge any and all of its privileges, rights, title and interests hereunder, or in the Property, by means of recording an assignment of such with the Office of the Recorder of Deeds of Kenosha County, Wisconsin. Upon such assignment, the assignee shall become the new Developer, and the original assigning Developer shall be relieved from any liability arising from the performance or non-performance of such rights and obligations accruing from and after the recording of such assignment. No such successor assignee of the rights of Developer shall have or incur any liability for the obligations or acts of any predecessor in interest. If the

Execution Version

Developer ceases to exist or resigns and has not made an assignment, the Owners may appoint a successor to the Developer in an instrument signed by the Owners of at least sixty-six and two-thirds percent (66-2/3%) of the Lots. The instrument shall be signed by the successor Developer and shall become effective upon recording in the Office of the Recorder of Deeds of Kenosha County, Wisconsin.

8.6 Provisions to be Liberally Construed. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for development for the Property.

8.7 Enforcement. Upon the occurrence of a violation of the covenants, conditions and restrictions set forth in this Declaration, the Association shall give the Owner written notice of the violation and if such violation is not remedied within five days after notice, or if a second occurrence of such violation shall occur within six months of the original notice of such violation from the Association, the Association may levy a fine in the amount of \$500 and an additional fine of \$100 for each day thereafter the violation continues. All fines levied by the Association shall constitute a special assessment and a lien on the Lot of the Owner who caused the violation and if a fine is not paid within 15 days after written notice of such fine, the amount due shall accrue interest at the rate of 12% annually. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

8.9 Notice of Other Uses. Developer hereby discloses and all Lot Owners acknowledge and agree that there is an approximately 170-unit condominium townhouse development proposed to be developed by Developer to the north and east of the Property pursuant to the Village Master Plan.

8.10 Restriction on Certain Provisions. No provision, covenant, condition or restriction contained in this Declaration, the Bylaws or any rules and regulations adopted pursuant hereto may impair any rights guaranteed by the First Amendment to the Constitution of the United States, the Constitution of the State of Wisconsin or may be applied to discriminate against an individual in a manner described in Section 106.50 of the Wisconsin Statutes.

[Signature appears on next page.]

Execution Version

IN WITNESS WHEREOF, this instrument has been duly executed as of the day, month and year first above written.

VILLAGE GREEN DEVELOPMENT, LLC

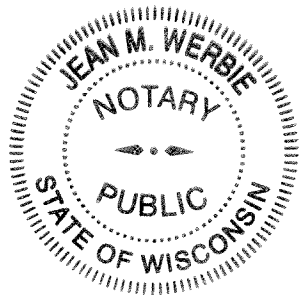
By: **LAND & LAKES DEVELOPMENT CO.**, an Illinois corporation, its Manager

By: *Martin S. Hanley*
Martin S. Hanley, President

STATE OF _____)
) SS
COUNTY OF _____)

Personally came before me this 7th day of August, 2006, the above-named Martin S. Hanley, President of Land & Lakes Development Co., an Illinois corporation, the Manager of Village Green Development, LLC, a Delaware limited liability company, to me known to be such person who executed the foregoing instrument and acknowledged that he executed the same on behalf of said limited liability company, by its authority.

Jean M. Werbie
[Name] Jean M. Werbie
Notary Public Kenosha County, WI
My Commission Expires: 1-17-2010



This instrument was drafted by and when recorded return to:

Martin S. Hanley
Land & Lakes Development Co.
123 N. Northwest Highway
Park Ridge, IL 60068

Execution Version

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

THE ORIGINAL PROPERTY

LOTS 1 THROUGH 135, INCLUSIVE, AND OUTLOTS 4 AND 6 IN THE SUBDIVISION OF VILLAGE GREEN HEIGHTS, A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 23, AND THE WEST 30 ACRES OF THE SOUTHEAST QUARTER OF SECTION 23, ALL IN TOWNSHIP 1 NORTH, RANGE 22 EAST OF THE FOURTH PRINCIPAL MERIDIAN, IN THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY

Tax Key No. 92-4-122-233-0005

THE ADDITIONAL PROPERTY

LOTS 136 THROUGH 218, INCLUSIVE, AND OUTLOTS 8 AND 10 IN THE PLAT OF VILLAGE GREEN HEIGHTS ADDITION NO. 1, A RESUBDIVISION OF OUTLOT 5 AND OUTLOT 3 OF VILLAGE GREEN FINAL PLAT AND OUTLOT 2 OF CERTIFIED SURVEY MAP NO. 2496," DATED AUGUST ____, 2006 AND RECORDED WITH THE RECORDER OF DEEDS ON AUGUST ____, 2006 AS DOCUMENT NO. _____, A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 23, AND THE WEST 30 ACRES OF THE SOUTHEAST QUARTER OF SECTION 23, ALL IN TOWNSHIP 1 NORTH, RANGE 22 EAST OF THE FOURTH PRINCIPAL MERIDIAN, IN THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY

(Tax Numbers: 92-4-122-233-0013, 92-4-122-233-0015, 92-4-122-233-0019 and 92-4-122-233-0400)

Single-family Phase I - Executives copy

RETURN:
CHICAGO TITLE
PIN 92-4-122-233-0005



DOCUMENT NUMBER
1373040

RECORDED
At Kenosha County, Kenosha, WI 53140
Louise I. Principe, Register of Deeds
on 2/03/2004 at 2:35PM
\$59.00
40004908

JOES
RESDEED3

DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS
FOR
VILLAGE GREEN HEIGHTS

59

THIS DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENTS FOR VILLAGE GREEN HEIGHTS, made this 2nd day of February, 2004, by **VILLAGE GREEN DEVELOPMENT, LLC**, an Illinois corporation ("Developer"), with respect to the real property located in the Village of Pleasant Prairie (the "Village"), Kenosha County, Wisconsin and more particularly described on Exhibit A hereto,

WITNESSETH:

WHEREAS, the Developer is the owner of the real property described in Article II of this Declaration (as defined in Article II, the "Property"), and desires to subject the Property to conditions, covenants, restrictions, easements, liens and charges (sometimes referred to as "covenants and restrictions") set forth in this Declaration, each and all of which is and are for the benefit of the Property and for each owner thereof and shall pass with ownership of the Property, and each and every parcel thereof, and shall apply to and bind the successors in interest, and any owner thereof;

NOW, THEREFORE, the Developer hereby declares that the real property described and referred to in Article II hereof is and shall be held, used, transferred, sold and conveyed subject to the conditions, restrictions and covenants hereinafter set forth.

**ARTICLE I
DEFINITIONS**

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

"Architectural Control Committee" shall mean initially, Developer, and thereafter as provided in Section 4.3 hereof, a committee composed of three (3) representatives appointed by the Board of Directors of the Association, or if no committee has been appointed, the full Board shall serve as the Architectural Control Committee.

"Association" shall mean and refer to the Village Green Heights Homeowners Association, Inc., a Wisconsin not-for-profit corporation formed by the Developer.

"Bylaws" shall mean the written Bylaws for the Association initially established by the Developer, as they may be amended from time to time by the Board of Directors of the Association.

"Common Area" shall mean and refer to: (i) Outlots 4 and 5; (ii) all easements for the benefit of

Single-family Phase I – Execution Copy

the Association on the Subdivision Plat or any certified survey map of the Property including, without limitation, those designated as:

Dedicated Utility Easement Areas (“Utility Easement Areas”);
Dedicated Stormwater Management, Access and Maintenance Easement (“Stormwater Management Easements”)
Dedicated Restricted Woodland Protection and Preservation Areas (“Woodland Protection Areas”);
Dedicated Restricted Wetland Protection and Preservation Areas (“Wetland Protection Areas”);
Landscape, Access and Maintenance Easement Areas (“Landscape Easements”)

(iii) any other areas as shown on the Subdivision Plat and which at the time of filing of the Subdivision Plat or at such other time Developer in its sole discretion desires to convey to the Association or which, upon transfer of responsibility by Developer to the Association, the Association shall have the responsibility to maintain; and (iv) improvements on any of the land described in clauses (i) through (iii) hereof or other general improvements wherever located (such as the lights and Entrance Monuments, landscaping, etc.), which are intended to be devoted to the common use, benefit and enjoyment of the Owners of the Property.

“Developer” shall mean VILLAGE GREEN DEVELOPMENT, LLC, a Delaware limited liability company.

“Lot” shall mean and refer to any numbered plot of land shown upon any recorded Subdivision Plat of the Property, with the exception of the Outlots and areas shown on the Subdivision Plat as Dedicated Public Streets.

“Member” shall mean and refer to all those Owners who are Members of the Association as provided in Article IV, Section 4.3.

“Outlots” shall mean the outlots designated as such on the Subdivision Plat, whether owned by the Association or the Village.

“Owner” shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot; except that as to any Lot which is the subject of a land contract wherein the purchaser is in possession, the terms, “Owner” shall refer to such person instead of the vendor.

“Property” or “Properties” shall mean and refer to all or any part of the real property located in the Village of Pleasant Prairie, Kenosha County, Wisconsin, more particularly described on Exhibit A hereto, together with any additional real property which is made subject to this Declaration pursuant to Section 2.2 hereof.

“Street Yard” shall mean and refer to the portion of the Lot which extends from the boundary of the Lot that abuts the street or public right-of-way (measured from the property line), to the foundation of the side of the dwelling which is closest to said street or right-of-way. For any corner Lot, the Street Yard shall be measured from each street or public-right of way which said corner Lot abuts to the foundation of the side of the dwelling which is closest to the street or right-of-way in question.

“Subdivision Plat” shall initially mean the original plat of subdivision of Village Green Heights Subdivision, as recorded with the Register of Deeds for Kenosha County, Wisconsin, and if and when the Developer records a plat of resubdivision for Outlot 5 and subjects the residential lots and the outlots on the Outlot 5 as resubdivided to this Declaration, “Subdivision Plat” shall mean the original Subdivision Plat as modified by the plat of resubdivision of Outlot 5.

“Village” shall mean and refer to the Village of Pleasant Prairie, Kenosha County, Wisconsin.

**ARTICLE II
PROPERTY SUBJECT TO THIS DECLARATION**

2.1 The Property. The real property which is and shall be held, used, transferred, sold, conveyed and occupied subject to this Declaration is located in the Village of Pleasant Prairie, Kenosha County, Wisconsin, and is more particularly described on Exhibit A attached hereto. The Property described in Exhibit A includes one hundred thirty-five (135) single family Lots and Outlots 4 and 6, all of which are shown on the Subdivision Plat.

2.2 Additions to the Property. Developer may, from time to time and in its sole discretion, subject all or a portion of Outlot 5 as shown on the Subdivision Plat, or any other portion of property adjacent thereto or to the Property, by appropriate reference hereto. The additions authorized herein shall be made by filing for the record in the Office of the Register of Deeds for Kenosha County a Supplemental Declaration with respect to the additional property which shall extend the scheme of the restrictions and covenants of this Declaration to such property, including increasing the number of Members and votes in the Association and the amount of property owned and maintained by the Association. Such Supplemental Declaration may contain such additions and modifications of the restrictions and covenants applicable to the additional property as may be necessary to reflect the different character, if any, of the additional property and as are not inconsistent with the scheme of this Declaration. Such Supplemental Declaration may also provide for the use and enjoyment of the Common Areas by the owners of the Lots contained within the additional properties which become subject to this Declaration. Upon the recording of a Supplemental Declaration, the property described therein shall become a part of the Property and shall be subject to all of the terms of this Declaration.

**ARTICLE III
GENERAL PURPOSES AND CONDITIONS**

3.1 General Purpose. The Property is subject to the covenants, restrictions, and easements to insure the best use and the most appropriate development and improvement; to protect the Owners against such improper use of the Property as will depreciate the value thereof; to preserve, so far as practicable, the natural beauty of the Property; to provide for entrances to the Property; to guard against erection of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of the Property; to encourage and secure the erection of attractive, substantial homes, with appropriate locations on Lots; to prevent haphazard and inharmonious improvement of Lots; to secure and maintain proper setbacks from street and adequate free space between structures; to encourage secure and maintain attractive and harmonious landscaping of Lots and Common Areas; and in general to provide adequately for a high type and quality of improvement in the Property and thereby to enhance the value of investments made by purchasers of Lots.

3.2 Acceptance of Dedications, Restrictive Covenants, Easement and Declarations. The Association is hereby deemed to have accepted the dedications shown on the Subdivision Plat, and shall be bound by the restrictive covenants and easements running with the land, both as contained on the Subdivision Plat. The Association hereby accepts the obligations imposed by this Declaration. The restrictions and covenants contained herein shall be in addition to any restrictions or covenants now or hereafter imposed upon the Lots by any applicable Village Zoning Ordinance, Land Division and Development Control Ordinance, or Building Code or by the Developer in accordance with the terms of this Declaration.

3.3 Initial Construction of Common Areas. Notwithstanding anything contained herein to the contrary, the Developer shall be responsible for the following in or on the Common Areas: rough and final grading, topsoiling, seeding, construction, installation, repair, alteration, replacement, planting and maintenance of Entrance Monuments, stormwater, drainage and detention and/or retention basin improvements, park and open space, including, without limitation, storm sewer and drainage system improvements, signage, lighting, utility and communications facilities, plantings, sidewalks, street trees and other landscaping, underground irrigation systems in the cul-de-sac and boulevard islands if required by the Village and other locations described on the Subdivision Plat (and such other areas as Developer may elect) and for all related ingress and egress, construction, installation, repair, alteration, replacement, planting and other maintenance activities until each Outlot has been topographically field

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verified by the Developer, and inspected, verified and accepted by the Village in accordance with the terms and conditions imposed by the Village. The Developer shall also be responsible for landscaping within the cul-de-sac and boulevard islands and median strips within the Dedicated Public Streets and the street trees (all as described hereinbelow) until the foregoing have been constructed by Developer, inspected and accepted by the Village, and responsibility therefore shall have been transferred by the Developer to the Association.

3.4 Land Use and Building Type. No Lot shall be used except for single family residential purposes and limited professional offices and home occupations as defined by and/or permitted under applicable Zoning Ordinances. No building shall be erected, altered, placed or permitted to remain on any Lot other than one, single-family dwelling not exceeding two stories (plus attic) in height, and a private attached garage for not less than two cars.

No industry, business, trade, occupation or profession of any kind, commercial, religious, educational or otherwise, designed for profit, altruism, exploration or otherwise, shall be conducted, maintained or permitted on any part of the Property. No "For Sale" or "For Rent" signs, advertising, or other displays shall be maintained or permitted on any part of the Property except at such location and in such form as shall be determined by the Association. Notwithstanding the foregoing, Developer reserves the right to place "For Sale" or "For Rent" signs and other promotional signs on the Property, so long as there remains any unsold Lots.

Notwithstanding anything contained herein to the contrary, until the sale of the last Lot improved with a house in both Phase I and Phase II is sold to a third party, Developer and any subsequent purchaser of a Lot may use such Lot for purposes of building model homes open to the public for inspection and/or sale subject to the requirements set forth herein and further subject to applicable Village Zoning Ordinances and conditions imposed by the Village in granting any use or building permit, including, but not limited to, the imposition of a limitation on the length of time a dwelling may be used as a model home (which shall not be less than two (2) years).

3.5 Architectural Control. No building, wall, fence, swimming pool, driveway, deck, sidewalk, landscaping or other structure or improvement of any type (including antennae of any size or shape, whether freestanding or attached to another structure) shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition or improvement to or change or alteration on any Lot (including without limitation, making a curb cut, adding a deck, patio or sidewalk, repainting or landscaping changes on existing homes for which plans have previously been approved) be made until the plans, specifications and plot plan showing the nature, kind, shape, height, materials, color and location of the same and the landscape layout described in Section 3.11 hereof shall have been submitted to and approved in writing by the Architectural Control Committee as to: (i) location of the Building in relation to the boundaries and topography of the Lot and other Buildings on neighboring Lots; (ii) materials, color and harmony of exterior design; (iii) roof pitch; and (iv) compliance with the provisions of this Declaration. In the event the Architectural Control Committee fails to approve or disapprove within sixty (60) days after the complete plans and specifications have been submitted to it, then approval will be deemed to have been given and the Owner will be deemed to have fully complied with this Section as to such addition, alteration or change. No Owner shall request or obtain a building permit for a Lot from the Village without first obtaining the approval of the plans and specifications from the Architectural Control Committee. Developer hereby authorizes the Village to postpone its review of any application for a building permit or to deny any building permit for a dwelling or other structure on any Lot unless and until the plans and specifications for such dwelling or structure have been approved or deemed approved by the Architectural Control Committee. Notwithstanding the foregoing, Developer acknowledges and agrees that the Village shall have no responsibility for verifying that such plans and specifications comply with the substantive design guidelines and criteria imposed by the Architectural Control Committee. The Architectural Control Committee shall have the sole discretion and the right (but is under no obligation) to waive infractions or deviations from these restrictions in cases of hardship. The Architectural Control Committee shall have the sole discretion to determine which of the dwelling size requirements of this Declaration applies to a particular proposed dwelling and whether the same has been met. The provisions of this Declaration are minimum requirements and the Architectural Control Committee may in its discretion adopt stricter or more detailed standards and guidelines in written form, and amend them from time to time, or conversely, may relax standards, on a case by case basis if it reasonably determines that such modified standards are required for the benefit of the entire Property, provided such variance is not in conflict with the dedications, restrictive covenants, and easements running with the

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land as described on the Subdivision Plat or the obligations imposed by this Declaration on Owners or the requirements of the Village Ordinances. Further, Developer may require reasonable alterations to be made to any of the plans to be submitted under this Declaration and said recommendations of Developer shall be binding upon each and every Owner.

The Architectural Control Committee may charge a reasonable review fee to the Owner for the review of the Owner's proposed plans and specifications.

No building shall be placed or permitted to remain on any Lot other than buildings newly constructed on the Lot; no prefabricated or previously constructed dwelling or structures shall be relocated to or situated upon any Lot. Pre-manufactured building components may be permitted with the prior written approval of the Architectural Control Committee, and in its sole discretion.

3.6 Dwelling Size. No dwelling shall be erected in or on any Lot having a ground area within the perimeter of the main building, at or above finish grade elevation (exclusive of garages, basements, porches, patios, breezeways and similar additions), measured along the exterior walls, of less than the following areas:

- (a) Not less than 1,900 square feet for a one-story dwelling;
- (b) Not less than 2,200 square feet for a split-level or bi-level or two-story dwelling with a minimum first floor area of 1,100 square feet; or
- (c) With respect to all other types of dwellings, not less than such areas, determined by the Architectural Control committee, as are consistent with the foregoing and with other provisions hereof.

However, the Architectural Control Committee may deviate from the above requirements in case of hardship relating to placing a dwelling on a Lot, provided such variance is not in conflict with the requirements of the Village Ordinance(s).

3.7 Grading, Building, Location and Lot Area.

3.7.1 Any grading of a Lot must conform to the Master Grading and Drainage Plans ("Grading Plans") on file with the Village, and are subject to the prior review and approval of the Architectural Control Committee.

3.7.2 All Lots shall have minimum setbacks from the street lot line and from the interior side lot lines of the distances shown on the Subdivision Plat, subject to any sightline setbacks that may be required by Village Zoning or Subdivision Ordinances. In addition, the dwelling on each Lot shall be located parallel to the street and oriented in a similar sightline setback with the adjacent Lots.

3.7.3 Within each set of building construction plans submitted to the Architectural Control Committee for approval, shall be a plat of survey showing the placement of the proposed dwelling with the existing ground grade shown at all corners together with all easements as shown on the Subdivision Plat. The Architectural Control Committee reserves the right to make modifications as to the final first floor grade of the building. The landscaping and drainage of the Lot shall conform to the Village approved Grading Plans.

3.7.4 Each Owner shall be responsible for insuring that drainage from his or her Lot adheres to the existing drainage patterns as set forth in the approved Grading Plans and that the Owner's construction and other building activity does not interfere with or disrupt the existing or planned drainage patterns. The existing drainage pattern on a Lot shall not be changed, and no change to the drainage pattern on other lands within the Property or Village Green shall be caused by an Owner which varies from the approved Grading Plan as that plan is amended by Developer from time to time, subject to Village approval. Minor

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changes from said approved Grading Plan, where these changes do not violate the purpose, spirit and intent of said approved Grading Plan, shall be reviewed and may, if for good and sufficient reasons, be approved by the Architectural Control Committee and the Village; in all other cases the approved grades shall be strictly adhered to. Lot Owners shall be held responsible for any violation that will cause additional expense to Developer or any other Owner to correct any grading problems.

3.7.5 Upon the approval of building grades by the Architectural Control Committee, the applicant shall file the approved Lot Grading Plan with the Village for its review and approval prior to obtaining any permits or commencing any grading.

3.7.6 Any excess fill on any Lot shall be hauled, at the Lot Owner's cost, to a location off of the Property. Where fill is necessary on a Lot to obtain the proper topography and finished ground elevation, it shall be ground fill free of asphaltic and building waste material and shall not contain noxious materials that will give off odors of any kind, and dumping of fill materials shall be leveled immediately after completion of the building. Said fill shall also be subject to an erosion control permit issued by the Village.

3.7.7 No satellite receiver dishes shall be allowed or installed on any Lot except satellite receiver dishes which: (a) have a diameter of twenty-four (24) inches or less, and (b) are installed on a Building. All satellite receiver dishes of twenty-four (24) inches or less must receive Architectural Control Committee approval. The Architectural Control Committee satellite review and authority will include the dish size, the location of the dish on the property and the screening either necessary or allowed.

3.7.8 No external antennas, including radio or television towers of any type or for any purpose, shall be permitted on any Lot at any time.

3.7.9 No above-ground swimming pool shall be permitted on any Lot at any time. An above-ground pool shall mean a pool the vertical sides of which extend above the grade of the Lot in question by more than one (1) foot. Wrought iron safety fences, six feet in height, are required around any below grade swimming pool(s), and shall, in all respects, conform to the rules and regulations and ordinances established for the same by the Village and shall require the specific written approval of the Architectural Control Committee. Notwithstanding anything to the contrary in this Section 3.7.9, no swimming pool otherwise permitted hereunder shall be installed on Lot Nos. 34, 35, 38, 107, 112 or 135 (and, if and when a plat of resubdivision is recorded for Outlot 5, Lot Nos. 136,150,151, 170, 171, 185, 186, 198, 199 or 210, as shown on the Preliminary Plat), unless the front of the dwelling on any such Lot faces Main St. (with the driveway access on a side street).

3.7.10 No fences of any kind shall be permitted in the Street Yard of any Lot at any time. No chain-link, privacy or stockade fencing shall be permitted on any Lot. In all cases, the finished ("good") side of the fence shall face the adjacent Lot(s). All fences shall be of the "see-through" variety (by way of example, but not of limitation, wrought iron, picket, etc.). Except for fences around swimming pools as required under Section 3.7.9 hereof, no fence above four (4) feet shall be permitted in any part of the Lot.

3.7.11 No detached accessory buildings of any kind shall be permitted on any Lot at any time, including without limitation, additional detached garages, storage sheds or pool houses.

3.7.12 It shall be the responsibility of each Lot Owner to remove all debris caused by any and all construction work occurring on his Lot. No Lot Owner shall knowingly allow disposal of any waste building material, tree stumps, branches, tree trunks, or other materials on any Lot, Outlot or Common Area. This responsibility shall also apply to the street(s) abutting said Lot.

3.7.13 In order to maintain uniformity among the Lots and improvements thereon, permanent and uniform lamp posts must be purchased from Developer or a supplier designated by Developer. Each Lot Owner is responsible for installation of said uniform lamp post unit in locations as directed by the Developer at the time of occupancy of the home at Lot Owner's cost. Until the installation of permanent

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mail/newspaper units by the Developer, the Developer shall provide temporary mail and newspaper boxes, at a common location as directed by the U. S. Postal Service, for Lots on which dwellings have been constructed, and shall have the right to charge each individual Lot Owner for the cost of such temporary and permanent mail/newspaper unit on such Lot Owner's Lots.

3.8 Completion. All construction of dwellings and incidental structures shall be completed within one year from date of commencement of construction. Pavement of driveways, construction of walkways, landscaping shall be completed within one year from issuance of an occupancy permit from the Village (which may be communicated by the Village orally prior to the issuance of a formal written permit).

3.9 Easements.

3.9.1 Easements affecting the Property are recorded on the Subdivision Plat in the Office of the Register of Deeds of Kenosha County, Wisconsin. Each Lot shall be subject to any easement granted or hereafter to be granted and/or retained) by Developer or its successors and assigns to the Village or public or semi-public utility companies, for the erection, construction and maintenance of all poles, wires, pipes and conduits for the transmission of electricity, cable telecommunications, telephone and for other purposes, and for sanitary sewers, storm water management, storm water drains, gas mains, water pipes and mains, and similar services, and for performing any public or quasi-public utility functions that Developer or its successors and assigns may deem fit and proper for the improvement and benefit of the Property and for any other purpose as set forth in dedications and restrictive covenants on the Subdivision Plat. The Owner of any Lot on which such easement area(s) are located may use such areas, together with the area, if any, between the roadway and their Lot, for grass, plantings, driveways and other such uses as are described on the Subdivision Plat and shall otherwise care for and maintain such area provided such uses shall not interfere with the improvements, their uses and purposes, and the uses and purposes of the Village; nor shall any improvement be placed within such areas without the prior written consent of the Developer, Village and/or any other party having an interest in the respective easement area. Without limiting the generality of the foregoing provisions of this Section 3.9.1, the Association and the Lot Owners are hereby specifically put on notice that Paragraph 2 of the Easements on the Subdivision Plat provides that any utility company which has installed a utility in the dedicated utility easement areas shown on the Subdivision Plat shall have the right to trim or cut down trees, bushes, branches and roots in the dedicated utility easement areas as reasonably required so as to not interfere with the utility and communication grantees' use of the easement areas.

The minimum setback, Street Yard, shore yard, side yard, rear yard, wetland yard and on other such areas which are shown on the Subdivision Plat ("Setback Areas") are and shall be reserved for the use of non-exclusive easements for utilities serving, in whole or in part, the Property or any Lot or Outlot located therein or neighboring properties. By accepting title to a Lot and if not delineated on the Subdivision Plat, each Owner hereby agrees that such Setback Areas may be subjected to easements for utility lines for electricity, sewer, water, storm sewer, gas, telephone, cable television or other similar utilities. Within fifteen (15) days after written request therefor by the Developer, or, after creation of the Association as provided herein, each Owner, if necessary and if not previously obtained, shall grant specific easements (and cause their lenders to agree to non-disturbance of such easements) upon such terms as may be reasonably requested. No structures or other improvements may be constructed in the Setback Areas except landscaping in accordance with approved landscaping plans or as otherwise specifically permitted by the Architectural Control Committee and subject to any additional restrictions as set forth in the Subdivision Plat or the Village's ordinance and regulations pertaining to vision triangles.

3.9.2 An Entrance Monuments (including related signage, landscaping and lighting, all of which are included within the term "Entrance Monument") may be, in Developers discretion, located on Outlot 6. The Entrance Monument shall be the property of the Association upon conveyance from Developer as provided in Article V herein. Developer hereby creates and reserves for itself and the Village, easements to install and maintain the Entrance Monuments and for entry upon Outlot 6 to the extent necessary for maintenance, repair and replacement of such facilities. The Entrance Monument and

its related landscaping and lighting elements shall remain the property of the Association. Notwithstanding such easements and dedications, the Village shall have no obligations to exercise its rights with respect to the above-mentioned areas. The obligations contained within this section and as imposed by the Subdivision Plat shall run with the land, shall be binding upon the Association, its successors, assigns and successors in title, and shall benefit and be enforceable by the Village and the Developer. The Developer, its successors, assigns and successors-in-title thereof shall be relieved of any maintenance obligations they may have, at such time as all improvements have been initially installed to the satisfaction of the Village.

3.9.3 The southerly fifty (50) feet of the Lots abutting the north side of State Highway 165 (including, but not limited to, Outlot 6) is designated as a Dedicated Signage, Landscaping, Access and Maintenance Easement Area and a Vehicular Non-Access Area, all as shown on the Subdivision Plat. An easement coextensive with these areas and contained on the above-mentioned Lots (all as shown on the Subdivision Plat) has been dedicated, given, granted and conveyed, to the Association for purpose of access to and maintenance of such areas which are to be used for the planting and installing of trees, shrubs and other landscape materials and all related ingress and egress, grading, replacement, alteration and maintenance activities. These easements shall be exclusive except for the coextensive easements granted on the Subdivision Plat and other future, roadway, street, driveway or other such use as approved by the Village. These areas within the Property shall be graded by Developer with a berm of varying heights across the Restricted Planting, Landscape and Vehicle Non-Access Area (except that there may not be a berm in Outlot 6), and shall be landscaped in accordance with the Master Landscaping Plan by the Developer (the Master Landscaping Plan is on file with the Village and is made a part of this Declaration); however the failure of the Developer to do so shall not relieve the Association of the obligations imposed by this covenant set forth herein and as also contained on the Subdivision Plat. Upon completion of the installation of trees, shrubs and other landscaping materials, no vehicular access through or over such area shall be permitted except as permitted by the Village for roadway, street, driveway or other such uses as agreed upon by the Village and Developer. After the trees, shrubs and other landscaping materials have been planted and installed in such areas, the Association shall be responsible for the maintenance and planting of the portion of any Lot or Outlot that falls within said 50-foot Landscape, Access and Maintenance Easement Area (which maintenance shall include without limitation and as needed, watering, pruning, trimming, cutting, re-staking, placing mulch around the trees, weeding to prevent nuisance conditions, mowing grass, maintaining and repairing any underground irrigation systems which may be required by the Village, removing trash and debris, trimming trees and shrubs and replacing dead or dying plant materials) in accordance with the Master Landscaping Plan as an aesthetically pleasing landscaped screening area. The Association and its Members shall be bound by the above-mentioned covenants and the easements, dedications and restrictive covenants as are contained in the Subdivision Plat. Notwithstanding such easements and dedications, the Village shall have no obligations to exercise its rights with respect to the above-mentioned areas. The obligations contained within this section and as imposed by the Subdivision Plat shall run with the land, shall be binding upon the Developer, its successors, assigns and successors in title, and shall benefit and be enforceable by the Village and the Association. The Developer, its successors, assigns and successors-in-title thereof shall be relieved of any maintenance obligations they may have except in its or their capacity as Owner of any such Lots or portion thereof, at such time as all improvements have been initially installed to the satisfaction of the Village.

The Owners of the Lots abutting the north side of State Highway 165 may install and maintain additional landscaping on the north sides of the berm created within the Restricted Planting, Landscape and Vehicle Non-Access Area on their Lots, provided that the Lot Owner shall be solely responsible for maintaining landscaping not originally placed by Developer or the Association. Prior to any additional landscaping on such berm, an Owner must have the landscape plan approved by the Architectural Control Committee and the Village.

3.9.4 Developer has dedicated, given, granted and conveyed to the Village public easements of varying widths along the street corners of those Outlots shown on the Subdivision Plat and described thereon as "Vision Corner Easements." Such easements shall restrict the use of the affected portions of said Lots, it being expressly intended that the easements shall constitute a restriction for the benefit of the

public to enhance visibility at the corners of the Property from adjacent right-of way. In the easement areas, nothing above a height above two (2) feet above ground surface may be grown, stored, or erected. If any Owner fails to maintain the portion of their Lot subject to a Vision Corner Easement in accordance with this section, the Association shall perform any necessary maintenance and repair and the cost shall be charged to such Owner as a special assessment and shall accrue interest at the rate of five percent (5%) per year above the “prime rate” as announced by published in the Money Rates section of the Wall Street Journal (the “Prime Rate”) if not paid in full within fifteen (15) days after notice to pay.

3.9.5 The Developer has dedicated, granted and conveyed to the Association an easement to enter upon Outlots 4 and 6 and/or any Lot, at reasonable notice to the Owner, for the purpose of repairing, maintaining, renewing, or reconstructing any utilities, facilities, detention and/or retention areas, drainage systems, storm and sanitary sewer and water systems, impoundments or other improvements which benefit other Outlots, Lots or the development as a whole, in addition to benefiting such Outlot or Lot.

3.10 Preservation Areas.

3.10.1 Wetland Protection Area – Outlot 6: The fee interest in the area shown on Outlot 6 has been dedicated, given, granted and conveyed, by Developer to the Association. Outlot 6 is subject to the easements, dedications and to the restrictive covenants imposed by the Subdivision Plat. Notwithstanding such easements and dedications, the Village shall have no obligation to exercise its rights with respect to the above mentioned Outlot; provided, however, the Village shall be bound to perform those duties which are expressly set forth herein. The Developer shall be initially responsible for completing all related construction, installation, necessary repairs, alterations, landscaping and all required maintenance to Outlot 6. The Dedicated Wetland Protection Area on Outlot 6 as shown on the Subdivision Plat shall be preserved, protected and maintained as a wetland. No filling or other activity or condition detrimental to their function as a wetland shall occur or exist within such areas or on the surrounding lands without the written approval of Developer and the Village. From time to time in the Village’s discretion, the Village shall have the right to inspect such areas. The obligations contained within this section and as imposed by the Initial Subdivision Plat shall run with the land, shall be binding upon Developer, its successors, assigns and successors-in-title, and shall benefit and be enforceable by the Village, Developer and the Association. Developer, its successors, assigns and successors-in-title thereof shall be relieved of any preservation, protection or maintenance obligations they may have at such time as all initial improvements have been installed thereon to the satisfaction of the Village and Developer has transferred responsibility to the Association. The Association and its Members shall be bound by the above-mentioned covenants and such similar covenants as are contained in Subdivision Plat.

3.10.2 Stormwater Management, Access and Maintenance Areas – Outlots 4 and 6: The fee interest in Outlots 4 and 6 have been dedicated by Developer to the Association. Outlots 4 and 6 are subject to the easements, dedications and restrictive covenants imposed by the Subdivision Plat. Notwithstanding such easements and dedications, the Village shall have no obligation to exercise its rights with respect to the above mentioned Outlots, provided, however, that the Village shall perform those duties which are expressly set forth herein. The Developer shall initially be responsible for completing all related construction, installation, necessary repairs, alterations, landscaping and all required maintenance to these Outlots. All stormwater detention and/or retention areas as shown on the Subdivision Plat shall be preserved, protected and maintained as stormwater detention and/or retention basins. No filling or other activity or condition detrimental to their function as a detention and/or retention pond(s) shall occur or exist within such areas or on the surrounding lands without the written approval of Developer and Village. From time to time in the Village’s discretion, the Village shall have the right to inspect such areas. The obligations contained within this section and as imposed by the Subdivision Plat shall run with the land, shall be binding upon Developer, its successors, assigns and successors-in-title, and shall benefit and be enforceable by the Village, Developer and the Association. Developer, its successors, assigns and successors-in-title thereof shall be relieved of any preservation, protection or maintenance obligations they may have at such time as all initial improvements have been installed thereon to the satisfaction of the Village and responsibility has been transferred by the Developer to the Association. The Association shall

be bound by the above-mentioned covenants and such similar covenants as are contained in Subdivision Plat.

The Owners of the Lots shall be responsible for and share in the costs of maintaining any drainage-ways and above-ground improvements within such drainage-ways (storm pipes, catch basins, grates, etc.) which are contained along shared property lines. Such maintenance shall include as needed, seeding or sodding, removing of trash, debris, leaves and brush, mowing and weeding to prevent nuisance conditions. No driveways, fences, or structures shall be erected within the drainage easement which blocks, diverts or reroutes the drainage flow or which might interfere with the Village's rights, unless express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village. Such areas and/or improvements that are contained entirely within one Lot shall be the sole responsibility of that Lot Owner.

The maintenance, repair and reconstruction, if necessary, of the storm sewers or other below-ground stormwater-related improvements located on any Outlot, whether such Outlot is owned by the Village or the Association, and storm outfalls into any Outlot, whether owned by the Village or the Association, shall be the responsibility of the Village. In addition, the Village shall be responsible for the following, as needed, in or on the drainage-ways and improvements on any Lot or Outlot: grading, topsoiling, maintaining erosion control methods to protect the drainageways, ditching to reestablish design capacity and clearing and repairing catch basin structures.

3.10.3 Future Park and Open Space Access and Maintenance Area - Outlots 4 and 6: The fee interest in Outlots 4 and 6 has been dedicated, given, granted and conveyed, by the Developer to the Association. Outlots 4 and 6 shall be subject to the easements, dedications and to the restrictive covenants imposed by the Subdivision Plat. The Association shall be responsible for completing all related construction, installation, necessary repairs, alterations, landscaping and all required maintenance to these Outlots. Any Park and Open Space Preservation Areas as shown on the Subdivision Plat shall be preserved, protected and maintained as such. No activity or condition detrimental to their function as Park and Open Space shall occur or exist within such Outlots without the written approval of the Village. The obligations contained within this section and as imposed by the addition to the Subdivision Plat shall run with the land, shall be binding upon Developer, its successors, assigns and successors-in-title, and shall benefit and be enforceable by the Association and the Village. Developer, its successors, assigns and successors-in-title thereof shall be relieved of any preservation, protection or maintenance obligations they may have at such time as all initial improvements have been installed to the satisfaction of the Village and responsibility therefore has been transferred by the Developer to the Association. The Association shall be bound by the above-mentioned covenants and such similar covenants as are contained in the addition to the Subdivision Plat.

3.11 Zoning Laws, Etc. In addition to the provisions contained within this Declaration, all Lots and improvements thereon shall be subject to the Village ordinances and applicable state and federal laws, as may be amended from time to time (hereinafter collectively referred to as "Laws"). No Lot shall be further divided or combined without the approval of the Village. The requirements under the Village ordinances are not stated herein and therefore, it shall be the sole responsibility of every Owner to understand and insure compliance with the Village ordinances as the same may be amended from time to time. In the event of a conflict between a provision of this Declaration, the Subdivision Plat any Village ordinance, the strictest provision shall control. Failure to mention a requirement, with respect to any Lot or other necessary approval in this Declaration shall not imply that no such requirement exists with the Village and shall not constitute a waiver of such Village requirement and/or approval.

3.12 Landscape. All plans for dwellings shall include a landscape plan which shall be subject to the written approval of the Architectural Control Committee prior to commencing construction of the dwelling. Each and every Owner of any Lot shall be responsible for the costs of installing the required landscaping on his or her Lot and in accordance with the Landscape Standards approved by the Architectural Control Committee in conjunction with the construction of the dwelling on the Lot. The landscape plan shall include, but not be limited to, plant location, common and botanical names of plant materials, planting size, root condition, and quantity of all plant

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material. The plan shall also show all ground cover, including size and caliper of plant materials, mulch areas, landscape, construction materials and construction details. The landscape plan may be submitted for approval subsequent to submission of the building plans for the dwelling. Such landscape plan shall include driveway, deck, patio, sidewalk and plantings such that a pleasing park-like appearance shall ultimately be accomplished in the Property and a uniform line of planting is avoided. Landscape planting for any dwelling as approved by the Architectural Control Committee shall be completed within one year from the date of issuance of an occupancy permit by the Village and shall be properly maintained thereafter. In the event the landscaping is not maintained properly, in the opinion of the Architectural Control Committee, upon notification, the Owner of the Lot shall take adequate measures to properly maintain the landscaping. Refusal to comply with the maintenance requirement shall be considered a violation of Section 3.13 of this Declaration and shall be subject to assessment as provided in Article VI and enforcement pursuant to Article VII. Alterations to the approved landscape plan other than those which are minor in nature (by way of example, substitution of plant species of similar height and width) shall be subject to the approval of the Architectural Control Committee. Except for removal of dead or diseased plant materials which are replaced by the same or similar plant species, no trees, landscaping, or other plantings existing on a Lot, except those in the location of the proposed dwelling, patio, walks and driveways, shall be altered or removed without prior written approval of the Architectural Control Committee.

3.13 Nuisances, Etc. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become a nuisance to the neighborhood. Trash, garbage or other wastes shall not be kept except in sanitary containers and all such materials or other equipment for disposal of same shall be properly screened from public view. Outside incinerators are not permitted. No person shall kindle, start, maintain or conduct outdoor burning or open fires, including but not limited to, the burning of trash, paper, cardboard, leaves, grass, other yard waste or items that emit noxious or hazardous smoke as determined by the Architectural Control Committee except a fire for outdoor cooking or recreation. The fire for cooking or recreation shall be in a grill, fireplace or other equipment specifically designed for outdoor residential uses. Paper or cardboard may be used as a starting device but not as the primary component to burn.

No vehicle (including, without limitation recreational type vehicles such as snowmobiles or all-terrain vehicles), truck, trailer, tent, shack, garage, barn or other outbuilding or living quarters of a temporary character shall be permitted on any Lot at any time.

There shall be no outside parking of boats or recreational type vehicles, including but not limited to snowmobiles or all-terrain vehicles; these must be stored in garages. No trucks, buses or vehicles other than private passenger cars or similar private vehicles shall be parked in private driveways or on any Lot for purposes other than in the normal course of construction or for services rendered to a dwelling or Lot. No vehicles shall be continuously parked on the streets or roadways for more than forty-eight (48) hours, but shall be parked on the driveway of the Lot or in the private garage.

No snowmobiles, all-terrain vehicles or other similar vehicles, or similar means of transportation, shall be operated within the Property at any time.

3.14 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that up to two (2) dogs, three (3) cats and an unlimited number of other small household pets (such as canaries or parakeets) may be kept in a manner which will not disturb the high type and quality of life and the environment of the Property provided that no animals shall be kept, bred or maintained for any commercial purposes. Dog runs and outside dog houses are prohibited.

3.15 [Intentionally omitted.]

3.16 Garages: Parking.

3.16.1 Each Lot shall have a private enclosed garage (attached to the dwelling) for on-site storage of not less than two automobiles for each single-family dwelling built upon such Lot, to be connected to the street by a properly surfaced asphalt, concrete or brick driveway (which driveway shall be

installed and completed within one year from the date of occupancy of the dwelling).

3.16.2 The location of garage door(s), whether front or side entry, and the location of any driveway and its intersection with the street shall be subject to the approval of the Architectural Control Committee.

3.17 Driveway Access. All driveways shall be located a minimum of five (5) feet from the side property line. Driveway access is limited on all corner lots per the Subdivision Plat. Neither Owners nor their contractors shall saw, cut or otherwise alter any portion of the mountable curb prior to, upon, or after installation of the driveway. The locations of all driveways and curb-cuts shall be subject to the approval of the Architectural Control Committee.

3.18 Roofing Material and Construction.

3.18.1 All dwellings proposed to be erected, altered or modified shall specify on the construction plans dwelling materials acceptable in quality to the Architectural Control Committee and the construction shall be carried out with such roofing materials as approved by the Architectural Control Committee.

3.18.2 All dwellings shall have pitched roofs with a pitch to be approved by the Architectural Control Committee in conformity with village requirements.

3.19 Architectural Design Philosophy; Exterior Building Materials and Dwelling Quality.

3.19.1 To ensure the harmonious appearance of the development, the Architectural Control Committee shall adhere to the following design objectives in reviewing architectural plans for dwellings: The architectural design of dwellings should create visual variety, and at the same time, promote an integrated character for the neighborhood. Providing variety with continuity to avoid monotony is the objective. Dwellings within the development should be of a similar type and size and be designed so that streetscapes are unified. The general architectural vernacular for the Village Green Heights single family development shall be traditional, using traditional building materials

3.19.2 All dwellings proposed to be erected, altered or modified shall, on the construction plans, denote material(s) proposed to be used. The front façade of each dwelling (except for the trim) shall be at least sixty-five percent (65%) brick, stone or similar masonry product. All-wood facades shall be permitted when the architectural vernacular has traditionally employed such material (by way of example, wood clapboard façade on a Georgian style dwelling). The Architectural Control Committee may make exceptions to the restrictions on façade materials where design elements make the use of such materials appropriate (by way of example, vinyl siding may be permitted on the façade when the dwelling is “farm house” style with a wrap-around porch).

3.19.3 The design, layout and exterior appearance of each dwelling proposed to be erected, altered or modified shall be such that, in the opinion of the Architectural Control Committee at the time of approving of the building plans, the dwelling will be of a high quality and will have no substantial adverse effect upon property values.

3.19.4 The proposed color schemes for a dwelling to be erected, altered, modified or repainted with a new color scheme shall be submitted to the Architectural Control Committee for approval prior to painting or staining. It shall be the aim of the Committee to harmonize colors for not only the dwelling proposed, but to consider the effect of these colors and materials as they relate to other dwellings.

3.19.5 Hung bays, shall not be permitted on first floor at any dwelling, except for boxed, bow or bay windows.

3.19.6 All dwellings shall have at least one fireplace.

3.20 Initial Construction of Common Areas.

3.20.1 Notwithstanding anything contained herein to the contrary, Developer shall be responsible for the initial construction, installation and landscaping of the Common Areas as described in Section 3.3 hereof.

3.20.2 Upon the transfer by the Developer to the Association of the following responsibilities, the Association shall have the obligation for the following:

(a) maintaining the drainage, maintenance and access easement areas located in the Common Areas in a functional, neat and nuisance free condition to handle stormwater and drainage in the Subdivision, which maintenance shall include, as needed, seeding or sodding, removing of trash, debris, leaves and brush, mowing and weeding to prevent nuisance conditions. No driveways, fences, or structures shall be erected within the drainage easement which blocks, diverts or re-routes the drainage flow or which might interfere with the Village's rights, unless express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village.

(b) maintaining: (i) the five (5) cul-de-sac islands in the Dedicated Public Streets west of 47th Avenue, (ii) the median strips on that portion of Main Street; and (iii) the boulevard strip in 47th Avenue immediately north of the intersection with 104th Street and the boulevard strip in Cooper Rd. north of STH 165, in a clean, mowed, maintained and weed-free condition. Such maintenance shall include without limitation and as needed, seeding; mowing; weeding; planting; watering; maintaining and repairing any underground irrigation system installed by the Developer in the Common Areas; and removing of trash, debris, leaves and brush in order to prevent a nuisance condition. No driveways, signage, parking areas, structures or fences shall be erected within the cul-de-sac and boulevard islands and median strips which might interfere with the Village's rights, unless express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village.

(c) maintaining the drainage and detention and/or retention basins, maintenance and access easement areas in Outlots 4 and 6 in a functional, neat and nuisance free condition to handle stormwater and drainage in or on the Property. Such maintenance shall include, without limitation and as needed, grading, topsoiling, seeding or sodding, maintaining erosion control methods to protect the drainageways; ditching to reestablish design capacity; removing of trash, debris, leaves and brush; mowing; and weeding to prevent nuisance conditions. No driveways, fences, signage, lighting or structures shall be erected within the outlet drainage easement which blocks, diverts or re-routes the drainage flow or which might interfere with the Village's rights, unless express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village.

(d) maintaining the Restricted Woodland Protection and Preservation Areas, if any, located on Outlots 4 or 6 as shown on the Subdivision Plat. No trees larger than eight (8) inches shall be cut or removed unless they are decayed and no digging, dredging, filling, grading, dumping or other land disturbance shall be permitted in such area, without the prior approval of the Village and subject to any conditions as may be imposed by the Village.

(e) maintaining the Restricted Wetland Protection and Preservation Areas, if any, on Outlots 4 and 6, shown on the Subdivision Plat. The Wetland Protection Areas shall be protected and maintained as a wetland and no digging, dredging, filling, grading, dumping or other land disturbance shall be permitted in such area, without the prior approval of the Village and the Wisconsin Department of Natural Resources (WI DNR) and subject to any conditions as may be

imposed by the Village or the WI DNR.

(f) (i) the clearance, maintenance, repair and replacement of any sidewalks, within the non-roadway areas of the Dedicated Public Streets shown on this Plat, in accordance with Village-approved plans and specifications; (ii) the construction, installation, repair, alteration, replacement and maintenance of the mailboxes located in one or more of the easement areas; (ii) payment of the costs of electricity for street lights (but not the repair, maintenance or replacement thereof or the cost thereof, which will be the responsibility of the Village after the public street improvements required by the Village to be constructed by Developer have been constructed by it and inspected by, dedicated to and accepted by the Village).

(g) maintaining, repairing and replacing the Entrance Monument and their related landscaping located on Outlot 6.

(h) maintaining and replacing the lighting, furniture and equipment, if any, planting and installing landscape elements and otherwise maintaining parks and open space on Outlots 4 and 6 on the Plat, in a neat and nuisance free condition. Such maintenance shall include, without limitation and as needed, removing of trash and debris, mowing; weeding to prevent nuisance condition.

To the extent that the Village performs any of the responsibilities of the Association set forth in this Section 3.20.2, the Association shall be liable for any costs which may be incurred by the Village, which the Village may recover from the Association as special assessments or special charges under Section 66.0627 (or successors or similar provisions) of the Wisconsin Statutes or otherwise according to law. The obligations contained within this Section 3.20.2 and as imposed by the Subdivision Plat shall run with the land, shall be binding upon Developer, its successors, assigns and successors in title, and shall benefit and be enforceable by the Village and the Association.

3.20.3 The Owner of the Lot shall be responsible for maintaining the street trees and grassy areas planted in the Dedicated Public Streets (right-of-way) abutting his or her Lot. Such maintenance shall include, without limitation and as needed, watering, pruning, trimming, cutting, re-staking, placing mulch around the trees and weeding to prevent nuisance conditions. No driveways, fences, or structures shall be erected which damages the trees or might interfere with the Village's rights, nor may any signage, banners festoons or the like be attached or affixed to the public street trees, unless in any of the above cases, express written approval is granted by the Village and subject to any such conditions as the Village may impose approved by the Village. Subject to any warranty that may have been given by the Developer, any street trees, which die or are damaged by vandalism or other calamity, shall be removed and replaced by the Owner of the adjacent lot within sixty (60) days of its removal, weather permitting.

The Village shall have no maintenance obligations with respect to the street trees or other planting materials. To the extent that the Village performs any such street tree or Street Yard maintenance activities which are the responsibility of a Lot Owner, such Lot Owner shall be liable for any costs which may be incurred by the Village, which the Village may recover from such Lot Owner as special assessments or special charges under Section 66.0627 (or successors or similar provisions) of the Wisconsin Statutes or otherwise according to law. Unless the Village exercises the rights granted to it in the dedications statement on the Subdivision Plat with respect to the street trees, the Village shall have no obligation to do anything pursuant to its rights.

3.21 Prohibition of Destroying or Removing Trees in the Woodland Preservation and Protection Easement Areas. Neither the Association nor Lot Owner or any invitee of either thereof shall remove, destroy, mutilate or otherwise harm any tree in any of the areas designated on the Subdivision Plat as Woodland Preservation and Protection Easement Areas, including but not limited to Outlots 1, 2, 3 and 5. Penalties for any violation of this Section 3.21 are set forth in Section 7.7 hereof.

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

4.1. Incorporation of the Association. The Developer has caused there to be incorporated a Wisconsin not-for-profit corporation known as the “Village Green Heights Homeowners’ Association, Inc.,” which corporation shall be and act in the capacity of the Association.

4.2. Turnover Date. The Developer shall, through the Board appointed by it in accordance with Section 4.3 hereof, exercise control over all Association matters, until the first to occur of the following: (a) the date which is ten (10) years from the date of the sale of the first Lot to an Owner other than an assignee of or successor in interest to Developer as provided in Section 4.2 hereof, (b) the date on which the Developer (or an assignee of or successor in interest to Developer as provided in Section 4.2 hereof) ceases to be the Owner of at least twenty-five percent (25%) of the Lots, or (c) the date Developer elects voluntarily to turn over to the Owners the authority to appoint the Board. The date upon which the authority to appoint the Board passes to the Owners is hereinafter referred to as the “Turnover Date.” If any of the following have not then already occurred, on the Turnover Date: (i) the Association shall accept the Common Areas which were dedicated on the Plat of Subdivision to the Association, and (ii) the Developer shall transfer responsibility to the Association, and the Association shall accept such responsibility, for the maintenance and other items described in the Subdivision Plat or elsewhere herein as being the responsibility of the Association’s after such transfer of responsibility. After the Turnover Date the Developer shall no longer be liable under this Declaration except in its capacity as an Owner.

4.3 Membership. Each Owner shall be a Member of the Association. A Member’s membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot. Every Member of the Association shall have one vote in the Association for each Lot owned by the Member. When more than one person or entity holds an interest in a Lot, the vote shall be exercised as set forth in the Bylaws. Until the Turnover Date, the authority and functions of the Board of Directors and the Architectural Control Committee shall remain in and be exercised solely by Developer or its successors and assigns. Until the Turnover Date, the Developer may, from time to time, by written notice to the Association, elect to relinquish its right to appoint any one or more directors and continue to exercise its right to appoint the remaining directors of the Board. No later than forty-five (45) days after the Turnover Date, the Developer shall convene a meeting of the Members to elect a new Board of Directors. The Developer, shall be entitled to vote at such meeting, in its capacity as owner of any Lots; provided, however, that the Board of Directors elected at such meeting shall be comprised of a majority of Owners other than the Developer. If the Developer, after making reasonable effort to do so, is unable to convene a meeting of the Members at which a quorum is present, the Developer may resign as Developer after thirty (30) days notice to the other Owners. If the Developer fails to timely convene such meeting, the Owners holding ten percent (10%) of the interest in the Association may call a meeting of the Members to elect a new Board of Directors. After the election of a Board of Directors at the first annual meeting at which all of the Directors are elected by the Members, the Board of Directors shall be elected by the Members at each annual meeting of Members. No more than one member of such elected Board of Directors shall be a non-Owner; provided, however, that in any case where the Owner is an entity other than a natural person, an officer or employee of such Owner may be a Board Member, and shall not, for purposes of this Section 4.3, be considered to be a non-Owner. Each Board Member shall serve for one (1) year or until his or her successor has been duly elected. The members of the Board of Directors shall not be entitled to any compensation for their services as such members. Members shall vote in person or by proxy executed in writing by the Member. No proxy shall be valid after six (6) months from the date of its execution.

4.4 Liability of Directors and Officers. Neither the Directors nor the Officers shall be personally liable to the Owners for any mistake of judgment or for any other acts or omissions of any nature whatsoever as such Directors or Officers except for any acts or omissions found by a court to constitute gross negligence or fraud, or, with respect to any criminal action or proceeding, such Director or Officer had no reasonable cause to believe that his conduct was unlawful. The Association shall indemnify and hold harmless the Directors and Officers, their heirs and legal representatives, against all contractual and other liabilities to others arising out of contracts made by or

other acts of the Directors or Officers unless a court of competent jurisdiction shall have found such contract or act was made fraudulently or with willful misfeasance or gross negligence, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, conviction, or plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner that he reasonably believed to be in or not opposed to the best interests of the Association. Notwithstanding the foregoing, no indemnity shall be operative with respect to any matter settled or compromised, and, in the opinion of the independent counsel selected by or in a manner determined by the Board, there is clear and convincing evidence for such person being adjudged liable for gross negligence or fraud in the performance of his or her duties as such Director or Officer.

Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Association in advance of the final disposition of such action, suit, or proceeding, as authorized by the Board in the specific case, on receipt of an undertaking by or on behalf of the Director or the Officer to repay such amount, unless it shall ultimately be determined that he or she is entitled to be indemnified by the Association as authorized in this Article. The burden of the foregoing indemnity shall be borne by the Owners at the time such loss, damage, cost or expense is incurred in the same proportion as assessments are borne by the Owners as provided in Article hereof. The sums necessary to discharge the obligations of the Association under this Article shall be Common Expenses.

The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any statute, agreement, vote of the Members or disinterested Directors, or otherwise, both as to action in his or her official capacity and as to action in other capacity while holding such office, and shall continue as to a person who has ceased to be a director or an Officer. Directors appointed by the Developer, and Officers elected by Directors appointed by the Developer, shall be entitled to all the protections of this Article. Nothing in this Section 4.4 shall be construed as a limitation upon any right for indemnification contained in Sections 181.0855, 181.0871, 181.0872, 181.0873, 181.0877, 181.0879 or 181.0881 of the Wisconsin Statutes, and the directors, members and officers, their heirs and legal representatives shall be entitled to be indemnified against all claims and liabilities to the fullest extent permitted by Sections 181.0855, 181.0871, 181.0872, 181.0873, 181.0877, 181.0879 and 181.0881 of the Wisconsin Statutes.

4.5 Bylaws. The Developer has established Bylaws for the Association setting forth in greater specificity, among other things, various procedural requirements for election of members of the Board, voting by the Members and the creation of officers.

ARTICLE V PROPERTY RIGHTS IN THE COMMON AREAS

5.1 Owner's Easement of Enjoyment. Subject to the provisions herein, every Owner shall have a right and easement of benefit and/or enjoyment in and to Outlots 4 and 6 and any Common Areas acquired by the Association which shall be appurtenant to and shall pass with the title to every Lot.

5.2 Title to Common Areas. Title to Outlots 4 and 6 and other Common Areas, if any, has been dedicated to the Association by Developer by virtue of the Subdivision Plat, and shall be hereby deemed to have been , granted, given and conveyed to and accepted by the Association. Members shall have the rights and obligations imposed by this Declaration with respect to such Common Areas. It is understood that the Entrance Monuments may, in the discretion of Developer, be located on easements for the benefit of the Association, and the Entrance Monuments shall be maintained, operated and administered by the Association.

5.3 Extent of Owner's Easements. The rights and easements of benefit and/or enjoyment created hereby shall be subject to the following:

5.3.1 The right of the Association to dedicate or transfer all or any part of any Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed

to by the Board of Directors, provided that no such dedication or transfer, shall be effective unless instruments signed by Members entitled to cast fifty-one (51%) percent of the votes of the membership have been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed dedication or transfer is sent to every Member at least thirty (30) days in advance of such dedication or transfer; and

5.3.2 The right of the Association, but subject to the prior written approval of the Village, to mortgage any or all of the Common Areas and facilities constructed on the Common Areas for the purposes of constructing or maintaining improvements or repair to Association land or facilities pursuant to approval of two-thirds (2/3) of the votes of the Members who are voting in person or by proxy at a regular meeting of the Members or at a meeting duly called for this purpose.

5.4 Damage or Destruction of Common Areas by Owner. In the event any Common Area or any portion of the water drainage system servicing the Property is damaged or destroyed by an Owner or any of his or her guests, tenants, licensees, agents or members of his family, such Owner hereby authorizes the Association to repair said damaged area; the Association shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association in the discretion of the Association. The amount necessary for such repairs shall be a special assessment upon the Lot of said Owner and shall accrue interest at the annual rate of five percent (5%) above the Prime Rate unless paid in full within fifteen (15) days after notice to pay. Damage not assessable to an Owner hereunder shall be paid by the Association and assessed to all Owners. The foregoing provision applies only to the private improvements and not to the public improvements that are dedicated to the Village. The Village may assess an Owner(s) for the cost to repair any damage to public improvements caused by the negligent or intentional act of such Owner(s).

5.5 Right to Enter and Maintain. The Developer and Association are hereby granted an easement and consequently shall have the right to enter upon Outlots 4 and 6 and/or any Lot, at reasonable notice to the Owner, for the purpose of repairing, maintaining, renewing, or reconstructing any utilities, facilities, detention and/or retention areas, drainage systems, storm and sanitary sewer and water systems, impoundments or other improvements which benefit other Outlots, Lots or the development as a whole, in addition to benefiting such Outlot or Lot.

If such Outlot or Lot contains public utilities or facilities having an area-wide benefit, which are maintained by the Village, the Village, following prior written notification to the Developer, may, if necessary to maintain such facilities in good working order and appearance, enter upon any Lot in order to repair, renew, reconstruct, or maintain such facilities or utilities and may assess the cost, if such cost is not traditionally assumed by the Village and/or prior to acceptance of such public improvements, to the Owners. No prior written notification shall be required for emergency repairs.

5.6 Disclaimer. Developer has conveyed or intends to convey to the Association, and the Association shall accept, such Outlots and other Common Areas as are to be conveyed to the Association “as is” and without warranty, express or implied, of condition, quality of construction, fitness for a particular use or otherwise. The Association shall be responsible for obtaining adequate liability insurance for such Outlots and Common Areas. Developer shall have no liability for damage or injury to any persons or property arising from the existence or use of the Outlots or Common Areas. The Association shall indemnify and hold Developer harmless against any and all claims relating to the Outlots and Common Areas.

ARTICLE VI COVENANT FOR ASSESSMENTS

6.1 Creation of the Lien and Personal Obligation of Assessments. Developer hereby covenants, and each Owner of any Lot by acceptance of the deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant, assume and agree to pay to the Association: (1) annual general assessments or charges; (2) special assessments for capital improvements and repairs to the drainage systems servicing the Property; (3) special

assessments for exterior maintenance to Lots and repairs to Common Areas; and (4) special assessments as provided in Sections 6.3 and 6.4. All such assessments together with interest thereon and costs of collection thereof, including attorney's fees, shall be (a) a charge on the land and a continuing lien upon the Lot against which such assessment is made and (b) the personal obligation of the person who was the Owner of such property at the time of the assessment.

6.2 Annual General Assessment.

6.2.1 Purpose of Assessment. The annual general assessment levied by the Association each year shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and, in particular, for the improvement, construction, maintenance, policing, preservation and operation of the Common Areas, and Entrance Monuments, in accordance with the requirements set forth herein and those obligations and restrictive covenants set forth herein and on the Subdivision Plat, including but not limited to, the cost of labor, equipment, materials, insurance, management and supervision thereof and fees paid for auditing the books of the Association and for necessary legal services and counsel fees to the Board of Directors.

6.2.2 Determination of the Assessment. Commencing no later than the calendar year in which the first (1st) Lot is sold to an Owner other than an assignee of or a successor in interest to the Developer, the Board of Directors shall prepare and annually submit to the Members a budget of expenses for such calendar year (or remaining portion thereof) for payment of all costs contemplated within the purposes of the annual general assessment described in Section 6.2.1. Upon adoption and approval of the annual budget by a majority of the Members entitled to vote as established by the articles of incorporation of the Association, the Bylaws and by rules validly adopted by resolution of the Board, the Board shall determine the assessment by dividing the amount of the budget among all Lots equally. The rate of assessment shall not be limited by the amounts set forth in Wisconsin Statutes, Section 779.70.

6.2.3 Method of Assessment. The assessment for each Lot shall be levied at the same time once in each year. The Board shall declare the assessments so levied due and payable at any time after thirty (30) days from the date of such levy (with an option for payment in monthly installments if approved by the Board), and the Secretary or other officer shall notify the Owner of every Lot so assessed of the action taken by the Board, the amount of the assessment of each Lot owned by such Owner and the date such assessment becomes due and payable. Such notice shall be mailed to the Owner at last known post office address by United States mail, postage prepaid.

6.2.4 Date of Commencement of Annual General Assessments. Payment of annual general assessments by all Owners shall commence no later than the date of conveyance of the first Lot to an Owner other than a successor in interest to the Developer.

6.3 Special Assessment for Capital Improvement and Repairs to Common Areas. In addition to the annual general assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year and not more than the next two (2) succeeding years for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements upon the Common Areas which are the responsibility of the Association, including fixtures and personal property related thereto, and extraordinary expenses incurred in the maintenance and operation of the Common Areas and facilities.

6.4 Special Assessment for Exterior Maintenance to Lots.

6.4.1 Exterior Maintenance to Lots. In addition to the maintenance upon the Common Areas described in Section 6.3, the Association may, at the request of the Owner of any Lot or in the event the Owner of any Lot fails to maintain the exterior of any buildings or improvements on the Lot or the Lot itself in reasonable condition, provide exterior maintenance upon each Lot as follows: (i) paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, driveways, walks, patios and other exterior improvements; and (ii) lawn cutting, shrub and tree trimming, driveway and walk shoveling

and window cleaning. The Association, its agents, contractors and subcontractors, shall have all necessary rights of ingress and egress to and from such Lot, building or improvement with full right to do whatever may be necessary to perform any such maintenance, repair or replacement.

6.4.2 Assessment of Cost. The cost of such exterior maintenance shall be assessed against the Lot upon which such maintenance is performed and if not paid within thirty (30) days of written notice of the amount of such assessment shall accrue interest at the annual rate of five percent (5%) above the Prime Rate. Such special assessment shall constitute a lien and obligation of the Owner and shall become due and payable in all respects as herein provided.

6.5 Method of Special Assessment. The Board of Directors of the Association may call a special meeting of the Members upon at least five (5) days prior written notice of the purpose of making a special assessment. The nature of the proposed special assessment shall be included in the notice. A majority of Members entitled to vote shall constitute a quorum for a special meeting, and a majority of Members entitled to vote who are present at the special meeting shall be required to approve the special assessment.

6.6 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinated to the lien of any first mortgage on the Lot recorded prior to the making of the assessment.

6.7 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charges and liens created herein: (i) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (ii) all Common Areas; and (iii) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from the assessments, charges or liens.

6.7 Joint and Several Liability of Grantor and Grantee. Upon any sale, transfer or conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor as provided in this Article up to the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Association setting forth the amount of such unpaid assessments and any such grantee shall not be liable for, nor shall the Lot be conveyed subject to a lien for, any unpaid assessment against the grantor pursuant to this Article in excess of the amount therein set forth. If the Association does not provide such a statement within fifteen (15) business days after the grantee's request, it is barred from claiming under any lien which was not filed prior to the request for the statement against the grantee.

6.8 Interest on Unpaid Assessment. Any assessment under this Article VI which is not paid when due shall thereafter until paid in full bear interest at the rate of five percent (5%) per annum above the Prime Rate or the highest interest rate permitted by law, whichever is lower. In addition to the interest charges, a late charge of up to \$50.00 per day may be imposed by the Board of Directors against an Owner if any balance in common expenses remains unpaid more than thirty (30) days after payment is due.

6.9 Effect of Nonpayment of Assessments: Remedies of the Association. No Owner may waive or otherwise escape liability for assessments by non-use of the Common Areas or abandonment of his or her Lot. If the Association has provided for collection of assessments in installments, upon default on the payment of any one or more installments, the Association may accelerate payment and declare the entire balance of said assessment due and payable in full. If the assessment levied against any Lot remains unpaid for a period of sixty (60) days from the date of levy, then the Board may, in its discretion, file a claim for maintenance lien against such Lot in the office of the Clerk of Circuit Court for Kenosha County within six months from the date of levy. Such claim for lien shall contain a reference to the resolution authorizing such levy and date thereof, the name of the claimant or assignee, the name of the person against whom the assessment is levied, a description of the Lot and a statement of the amount claimed and shall otherwise comply in form with the provisions of Wisconsin Statutes Section 779.70. Foreclosure of such lien shall be in the manner provided for foreclosure of maintenance liens in said statute or any successor statute.

6.10 Developer Not Responsible for Reserves. Except to the extent that Developer, as an Owner of Lots, is required to pay assessments and a portion of those assessments is used by the Association to fund one or more reserves for capital or other expenses, Developer shall have no responsibility for separately funding or contributing to any capital or other reserve account on behalf of the Association or the Property.

ARTICLE VII ENFORCEMENT

7.1 Right to Enforce. This Declaration and the covenants contained herein and on the Subdivision Plat are enforceable only by Developer and/or the Association and/or the Village or such person or organization specifically designated by Developer, in a document recorded in the office of the Kenosha County Register of Deeds, as its assignee for the purpose thereof.

7.2 Manner of Enforcement. This Declaration and the covenants contained herein and on the Subdivision Plat shall be enforceable by Developer and its assigns and/or the Village in any manner provided by law or equity, including but not limited to one or more of the following:

- (a) Injunctive relief;
- (b) Action for specific performance;
- (c) Action for money damages as set forth in this Declaration; and/or
- (d) Performance of these covenants by Developer and/or the Village on behalf of any party in default thereof for more than thirty (30) days, after receipt by such party of notice from Developer or the Village describing such default. In such event the defaulting Owner shall be liable to Developer or the Village for the actual costs (plus fifteen percent (15%) for overhead) related to or in connection with performing these covenants.

7.3 Reimbursement. To the extent that any duty is assigned to the Association pursuant to the Subdivision Plat or this Declaration, and such duty is performed by Developer, Developer shall be entitled to reimbursement from the Association for any loss, cost or expense (including the cost of performance), and such costs may include, by means of illustration and not limitation, the cost of replacing plants during the warranty period which have not been properly maintained by the Association. Any amounts expended by Developer and/or the Village in enforcing these covenants, including reasonable attorney fees, and any amounts expended in curing a default on behalf of any Owner or other party, shall accrue interest at the annual rate of five percent (5%) above the Prime Rate unless paid in full within fifteen (15) days after notice to pay, and shall constitute a lien against the subject real property until such amounts are reimbursed to Developer and/or the Village, with such lien to be in the nature of a mortgage and enforceable pursuant to the procedures for foreclosure of a mortgage.

7.4 Failure to Enforce Not a Waiver. Failure of Developer or assigns and/or the Village to enforce any provision contained herein shall not be deemed a waiver of the right to enforce these covenants in the event of a subsequent default.

7.5 Right to Enter. Developer and/or the Village shall have the right to enter upon any Lot for the purpose of ascertaining whether the Owner of said Lot is complying with these covenants, and, if Developer and/or the Village so elects under Section 7.2(d), for the purpose of performing obligations hereunder on behalf of a party in default hereof.

7.6 Village Authority. In the event the obligations contained herein and as continued in the Subdivision Plat are not being performed to the satisfaction of the Village, the Village shall have the right, but not the obligation to perform such function and may assess any charges incurred in the performance of such covenants against the Association and/or the Owners, as their respective obligations shall render them liable. Any amounts

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expended by the Village in enforcing these obligations, including reasonable attorney fees, and any amounts expended in curing a default on behalf of the Association shall be paid by the Association. Any amounts expended by the Village in enforcing these obligations, including reasonable attorney fees, and any amounts expended in curing a default on behalf of any Owner or other party acting by through or under Owner, shall be paid by the Owner. In the event such amounts are not paid, the charges may be levied as a special assessment by the Village in accordance with Wisconsin Statutes.

7.7 Protection of Trees in Dedicated Woodland Protection and Preservation Easement Areas on Adjacent Property. In the event that any Lot Owner or its invitee removes by human tampering (and not by a so-called "Act of God") any tree within the Dedicated Woodland Protection and Preservation Easement Areas on Outlots 1, 2, 3 or 5 as shown on the Subdivision Plat or any future condominium plat for Outlots 1, 2 or 3, in violation of Section 3.21 hereof, the Lot Owner shall be responsible for the cost of replacing such tree as follows:

- A. All replacement trees shall have at least equal shade potential and other comparable characteristics to those of the tree cut or removed.
- B. All replacement trees shall be a minimum of eight (8) feet in height when planted.
- C. No replacement tree shall have a diameter of less than two (2) inches measured six (6) inches above grade.
- D. The diameter of the replacement tree or trees shall be calculated as follows:
 - (i) if there is a single replacement tree, it shall have one-half (1/2) inch of diameter for each inch of diameter of the tree that was cut or removed.
 - (ii) if there is more than one replacement tree, the diameters of the replacement trees shall have, in the aggregate, one-half (1/2) inch of diameter for each inch of diameter of the tree that was cut or removed. (By way of example, if the cut or removed tree had a diameter of sixteen (16) inches, then the maximum number of replacement trees shall be four (4) trees, each with a diameter of two (2) inches.)

The Association shall be responsible for the selection, acquisition, transporting and planting of all replacement trees pursuant to this Section 7, and shall have the right to charge back to the Lot Owner in violation of this Section 7 for the Association's actual costs (plus fifteen percent (15%) overhead).

**ARTICLE VIII
GENERAL PROVISIONS**

8.1 Term. Unless amended as herein provided, this Declaration shall run with the Property and be binding upon all persons claiming under Developer for a period of fifty (50) years from the date this Declaration is recorded and shall automatically be extended for successive periods of ten (10) years unless, subject to the approval of the Village, an instrument signed by the greater of (i) the Owners of at least seventy-five percent (75%) of the Lots, or (ii) sixty-six and two-thirds percent (66-2/3%) of the Owners, has been recorded, agreeing to terminate this Declaration in whole or in part.

8.2 Amendment. This Declaration may be amended, modified or supplemented at any time by written declaration, executed in such manner as to be recordable, setting forth such change, modification or amendment in the following manner:

- (a) The Developer may unilaterally amend, modify or supplement all or any provision of this Declaration by instrument executed solely by Developer until such time as Developer (including any successor Developer) conveys the first (1st) last Lot to another Owner other than an assignee of or successor in interest to the Developer; or

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(b) The Association may amend, modify or supplement all or any provision of this Declaration by an affirmative vote of the greater of: (i) the Owners of at least sixty-six and two-thirds percent (66-2/3%) of all the Lots, or (ii) sixty-six and two-thirds percent (66-2/3%) of the Owners;

provided however, that in either case:

(i) no amendment which would materially and adversely affect: (A) the manner in which any Owner's assessment is determined; (B) any approvals or consents already given to any Owner; or affect the right of any mortgage holder, shall be made without the consent of that Owner or mortgage holder;

(ii) all amendments, supplements and modifications must be approved in writing by the Village;

(iii) all amendments, modifications and supplements shall be consistent with the general plan of development embodied in this Declaration; and

(iv) until such time as Developer (including any successor Developer) conveys all but the last Lot to other Owners, all amendments, supplements and modifications must be approved and executed by Developer.

Any amendment, modification or supplement shall become effective only if set forth in writing and executed and acknowledged by each of the consenting Owners and the Developer (if the Developer owns any Lots) and recorded in the Office of the Recorder of Kenosha County, Wisconsin; provided, however, the execution and acknowledgment by each of the consenting Owners shall not be required if the written amendment, modification or supplement contains the signature and acknowledgment of an authorized officer of the Association which states that such amendment, modification, supplement or revocation was approved by the affirmative vote of the greater of (i) Owners of at least sixty-six and two-thirds percent (66-2/3%) of all the Lots, or (ii) sixty-six and two-thirds percent (66-2/3%) of the Owners.

8.3 Notices. Each Owner shall file its correct mailing address with the Association and shall notify the Association promptly in writing of any subsequent change of address. The Association shall maintain a file of Owners' addresses and make it available to appropriate parties. A written or printed notice delivered in person or deposited in the United States Post Office, postage prepaid, and addressed to an Owner at the last address filed by the Owner with the Association shall be sufficient notice to the Owner wherever notices are required in this Declaration, and shall be deemed effective when delivered: (i) in person; (ii) three (3) days after mailing; (iii) by e-mail, where an Owner has consented to e-mail notice in writing (including consent communicated by e-mail).

8.4 Contracts. The Association or the Developer, on behalf of the Association, may enter into agreements with the owners of real estate in the vicinity of the Property (including other real estate owned by the Developer) or condominium associations or homeowners associations of owners of such properties for sharing responsibility, costs and decision-making authority for the maintenance and repair of the Common Areas and any publicly dedicated right-of-way used now or in future by the Owners and the owners of other real estate. Any such agreement shall be in writing and recorded in the Office of the Recorder of Kenosha County, Wisconsin.

8.5 Assignment, Resignation by Developer. For purposes of this Declaration, the conveyance by the Developer of legal title to a portion of the Property to a different entity which shall hold legal title for the benefit of the Developer or in which the Developer is the sole general partner or managing member shall not constitute a sale. Notwithstanding anything herein to the contrary, Developer in its sole discretion may determine, hereby reserve the right to transfer, assign, mortgage or pledge any and all of its privileges, rights, title and interests hereunder, or in the Property, by means of recording an assignment of such with the Office of the Recorder of Deeds of Kenosha County, Wisconsin. Upon such assignment, the assignee shall become the new Developer, and the original assigning Developer shall be relieved from any liability arising from the performance or non-performance of such rights and obligations accruing from and after the recording of such assignment. No such successor assignee of the rights of Developer shall have or incur any liability for the obligations or acts of any predecessor in interest. If the Developer ceases to exist or resigns and has not made an assignment, the Owners may appoint a successor to the

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Developer in an instrument signed by the Owners of at least sixty-six and two-thirds percent (66-2/3%) of the Lots. The instrument shall be signed by the successor Developer and shall become effective upon recording in the Office of the Recorder of Deeds of Kenosha County, Wisconsin.

8.6 Provisions to be Liberally Construed. The provisions of this Declaration shall be liberally construed to effectuate the purpose of creating a uniform plan for development for the Property.

8.7 Enforcement. Upon the occurrence of a violation of the covenants, conditions and restrictions set forth in this Declaration, the Association shall give the Owner written notice of the violation and if such violation is not remedied within five days after notice, or if a second occurrence of such violation shall occur within six months of the original notice of such violation from the Association, the Association may levy a fine in the amount of \$500 and an additional fine of \$100 for each day thereafter the violation continues. All fines levied by the Association shall constitute a special assessment and a lien on the Lot of the Owner who caused the violation and if a fine is not paid within 15 days after written notice of such fine, the amount due shall accrue interest at the rate of 12% annually. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or recover damages, and against the land to enforce any lien created by these covenants. Failure of the Association to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

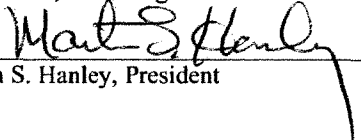
8.9 Notice of other Uses. Developer hereby discloses and all Lot Owners acknowledge and agree that there is an approximately 170-unit condominium townhouse development proposed to be developed by Developer to the north and east of the Property pursuant to the Village Master Plan.

8.10 Restriction on Certain Provisions. No provision, covenant, condition or restriction contained in this Declaration, the Bylaws or any rules and regulations adopted pursuant hereto may impair any rights guaranteed by the First Amendment to the Constitution of the United States, the Constitution of the State of Wisconsin or may be applied to discriminate against an individual in a manner described in Section 106.50 of the Wisconsin Statutes.

IN WITNESS WHEREOF, this instrument has been duly executed as of the day, month and year first above written.

VILLAGE GREEN DEVELOPMENT, LLC

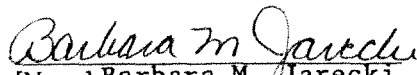
By: LAND & LAKES DEVELOPMENT CO., an Illinois corporation, its Manager

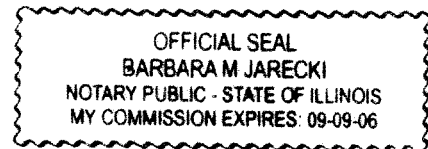
By: 
Martin S. Hanley, President

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STATE OF Illinois)
) SS
COUNTY OF Cook)

Personally came before me this 2nd day of February, 2004, the above-named Martin S. Hanley, President of Land & Lakes Development Co., an Illinois corporation, the Manager of Village Green Development, LLC, a Delaware limited liability company, to me known to be such person who executed the foregoing instrument and acknowledged that he executed the same on behalf of said limited liability company, by its authority.


[Name] Barbara M. Jarecki
Notary Public Cook County, ~~XXX~~ IL
My Commission Expires: 09-09-06



This instrument was drafted by and
when recorded return to:

Martin S. Hanley
Land & Lakes Development Co.
123 N. Northwest Highway
Park Ridge, IL 60068

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EXHIBIT A

DESCRIPTION OF THE PROPERTY

LOTS 1 THROUGH 135, INCLUSIVE, AND OUTLOTS 4 AND 6 IN VILLAGE GREEN HEIGHTS, A SUBDIVISION OF PART OF THE SOUTHWEST QUARTER OF SECTION 23, AND THE WEST 30 ACRES OF THE SOUTHEAST QUARTER OF SECTION 23, ALL IN TOWNSHIP 1 NORTH, RANGE 22 EAST OF THE FOURTH PRINCIPAL MERIDIAN, IN THE VILLAGE OF PLEASANT PRAIRIE, KENOSHA COUNTY

Tax Key No. 92-4-122-233-0005

Address: 104th Street