

**DECLARATION OF RESTRICTIONS
FOR
FOX LAKE VILLAGE SUBDIVISION**

This Declaration is made this 27th day of January 2006 by Fox Lake Village Development, Inc., hereinafter the "Developer".

WHEREAS, Developer is the owner of the property commonly known as the Fox Lake Village Subdivision, in the City of Waukesha, Waukesha County, Wisconsin, more particularly described on the attached Exhibit A; and

WHEREAS, Developer desires to subject the residential lots in said Fox Lake Village Subdivision to the conditions, restrictions, covenants, reservations and easements contained herein for the benefit of the said property and for the benefit of each owner of any part thereof and for the purpose of creating a desirable utilization of land in an aesthetically pleasing residential environment.

THEREFORE, the Developer hereby declares that the real property described on the attached Exhibit A, shall be held, sold, conveyed, transferred, used and improved only subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth which shall inure to the benefit of the Developer, its successors and assigns, and to all parties hereafter having any interest in the property.

1. BINDING EFFECT AND DEFINITIONS

This Declaration of Restrictions shall become effective immediately upon the recording hereof with respect to the property described on the attached Exhibit A.

The terms "Fox Lake Village", "Fox Lake Village Development" and "Subdivision", as used in this Declaration of Restrictions, are defined as the property described on the attached Exhibit A.

The term "City" as used in this Declaration shall mean the City of Waukesha.

The term "Lot" as used in this Declaration is hereby defined as each separate buildable parcel of real estate existing now or in the future which is created by any land division done in accordance with all applicable laws and regulations, and in compliance with all restrictions set forth in this Declaration, of the lands subject to this Declaration.

The terms "Common Area" or "Outlot" are defined as any outlot, boulevard, detention or retention area, or other area within the Subdivision which is not a lot nor a dedicated street nor an outlot dedicated or sold to the City nor any other dedicated area for which the City has assumed responsibility for maintenance. Each owner of a lot shall have an undivided ownership interest in the common outlots and the Owner's Association shall be responsible for the maintenance of all common areas and common outlots. The Owner's Association will be responsible for the repair or maintenance of any monument or common landscape amenity that is installed in a public right of way. This includes damage that may occur during City maintenance operations such as snowplowing.

The terms "Owner's Association" or "Association" shall mean Fox Lake Village Homeowners Association, Inc., a Wisconsin non-stock corporation, its successors and assigns.

The term "Water Feature Lot" shall mean all lots in the Subdivision that have property abutting Outlot 1, Block D.

2. GENERAL PURPOSE

The general purpose of these restrictions is to assure that Fox Lake Village will become and remain an attractive, high quality residential community and to that end to preserve and maintain the natural beauty, to ensure the best use and the most appropriate development and improvement of building sites within the property; to protect owners of building sites against such use of surrounding sites as may detract from the residential value of their property; to guard against and prevent the erection of poorly designed or proportioned structures on any part of the property; to obtain harmonious use of materials and color schemes in improvements; to ensure the highest and best residential quality of the property; to encourage and secure the improvements of the property with attractive homes with appropriate locations thereof on the building sites; to secure and maintain proper spatial relationships of structures to other structures and lot lines; and generally to ensure the highest and best residential development of the property.

3. INTERPRETATION

It is inherent to protective covenants and restrictions that from time to time those covenants and restrictions are subject to interpretation. In those instances wherein an interpretation is required because there is no definitive rule to be followed, or because there is a question regarding an intangible concept such as, but not limited to, what constitutes harmonious architectural design, what is poor design or proportion and what is aesthetically pleasing, the matter shall be subject to the opinion of the ACC for the granting of a final approval.

4. ARCHITECTURAL CONTROL COMMITTEE

An Architectural Control Committee (hereinafter the "ACC") for Fox Lake Village Subdivision is hereby established. The ACC shall consist of not less than three members, designated as hereinafter set forth. The decision of the majority of the members of the ACC shall be final and binding upon all parties. The ACC members shall not be entitled to compensation for services performed pursuant to this paragraph. The initial members of the ACC shall be appointed by the Developer, and the Developer shall be entitled to remove and replace members of the ACC, at its sole discretion, as long as there remains any vacant lot in the Subdivision; thereafter, the ACC shall consist of the Board of Directors of the Owner's Association, established as hereinafter set forth, provided said Owner's Association is in existence. If the Owner's Association is not legally in existence at any time after which there is no longer any vacant lot in the Subdivision, the ACC shall continue in existence with its then existing members, and ACC members shall be subject to removal, replacement and/or appointment as follows: by majority vote of the ACC members in attendance at a ACC meeting called by any one or more ACC members for that purpose; and/or by majority vote of lot owners in attendance at a meeting of lot owners called by any one or more lot owners for that purpose. Lot owner meetings called to remove, replace and/or appoint ACC members shall require not less than 10 days written notice to at least one owner of each lot, by personal delivery or by First Class U. S. Mail addressed to the last known owner and address as shown on the tax roll.

5. ARCHITECTURAL CONTROL

No building, swimming pool, gazebo, fence, wall, driveway (size and location), light post, landscaping or other structure or improvement shall be constructed, erected, placed or altered on any lot in Fox Lake Village Subdivision without the approval of the ACC. For any

C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake 01-06.doc

Page 2 of 21

finished yard grade (such as basement space, whether or not exposed, and/or the lower level of a split level) be counted for purposes of determining minimum square footage of living space. The minimum square footage shall be determined as of the time of initial construction, and shall not consider or include unfinished areas or future additions.

Exterior materials: The minimum amount of masonry at the front elevation of each home, as defined in sections A and B below, must consist of full brick, natural stone, cultured brick, cultured stone, EIFS (e.g. Dryvit or Sto) and/or stucco, and must terminate at an inside corner or have an acceptable terminating point, as determined solely by the ACC. The exterior elevations of each home shall consist of natural wood siding, cement composite siding (e.g. Hardiplank), full brick, natural stone, cultured brick, cultured stone, EIFS and/or stucco. Additional full brick, natural stone, cultured brick, cultured stone, EIFS and/or stucco, may be required on other elevations of the home, at the sole discretion of the ACC. The use of cement composite siding and EIFS will be permitted provided they are used with natural wood corner boards. Further, the ACC, in its sole discretion, shall have the right to permit or prohibit the use of composite wood, and/or other types of siding as it may deem appropriate to preserve the architectural integrity and quality appearance of dwellings in the Subdivision. In no event shall any dwelling be sided with metal or vinyl siding. Aluminum or vinyl soffits and fascia may be allowed at the discretion of the ACC if the architectural integrity and quality of appearance is not compromised. All exterior colors for each home must be approved by the ACC.

Roof materials: The roofing of all dwellings shall consist of fully dimensional asphalt shingles (or like product as approved by the ACC), weathered wood color, with a minimum 30-year warranty / 250#, with baked enamel bronze valley flashings. Wood shakes or tile will be permitted. Conventional asphalt shingles shall not be permitted. The ACC, in its sole discretion, may permit or prohibit the use of other types roofing materials (such as fiberglass shingles) having substantially the same appearance as the permitted materials, as it may deem appropriate, to preserve the architectural integrity and quality of appearance of dwellings in the Subdivision. Further, the ACC may, in their sole discretion, permit the use of such other forms of high quality and aesthetically pleasing roof materials as may be available now or in the future, including but not limited to masonry and/or copper.

Window treatments: Grids must be used on all windows and patio doors. Consistent use of shutters, window wraps and/or trim boards is required on windows and patio doors on all elevations. Use of shutters may be waived by ACC for architectural reasons (e.g. located in masonry, decorative gable window, etc.).

Garages: Every home in the Subdivision shall have a minimum of a two (2) car garage and a maximum of a three (3) car garage.

Tennis courts, Landscape structures: Tennis courts will not be allowed. Any accessory landscape structures such as gazebos, decks, arbors, fencing or walls are subject to approval by the ACC. Perimeter lot fences will not be allowed.

Swimming pools, hot tubs: Above ground swimming pools are prohibited. Hot tubs on decks or patios will be allowed, provided they are located next to the home and concealed from view. The size and location of any hot tub must be approved by the ACC.

Fiber Optics Service – Structural Wiring Specifications: Developer has arranged for the implementation of fiber optics service within the Subdivision. In order to enable the homes in the C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake 01-06.doc

Page 4 of 21

Subdivision to take advantage of and utilize the capabilities of the fiber optics service, each home in the Subdivision must contain the following basic structural wiring specifications.

1.) Compliance - Residential cabling and components shall comply with the following industry standards:

- ANSI/EIA/TIA 570A Residential Cabling Standards
- EIA TR 41.8 Standards for Attenuation and Near End Cross Talk (NEXT)
- Local Electrical & Telecommunications Code Requirements

2.) Structural Wiring Network - consisting of four basic components:

- Central Distribution Panel (enclosure/cabinet) with Door (CDP)
- Telecom & Video Modules
- All Structured Wiring to be Homeruns from CDP using Star Topology
- Multi-port Outlets with RJ45 Jacks for Phone/Data & F Connectors for Video

3.) Minimum Features/Capabilities -

- 6 - TIA Grade 1 Outlets (1 Cat5e + 1 RG-6)
- 2 - TIA Grade 2 Outlets (2 Cat5e + 2 RG-6)
- Grade 2 Runs shall use 2 x 2 Bundled & Shielded Multimedia Cable
- Category 5e Cable should be Crush Protected & Enhanced Cross-Talk Mitigated.
- RG-6 Cable shall be Quad Shielded & Fully Swept Tested of 2.4 GHz.
- All cables shall be terminated in the enclosure
- Based on the above listed specifications the minimum modules required at installation will need to support 8 telephone outlets and 8 TV outlets.
- Minimum specifications listed above require 8 - RG-6 runs, therefore, a video amplifier may be required by homeowner after move in
- Category 5e Cabling Runs shall be tested and verified upon installation for pair continuity and wire map
- 2" conduit shall be run from the enclosure to the attic space for future growth
- ¾" conduit shall be run to outside of house by electric meter
- Fiber Power supply shall be run from CDP to electric meter on outside of house
- 15-year warranty on all cabling must be included

4.) Minimum Central Distribution Panel Specifications:

- Enclosure shall measure approximately 14.25" wide and 28" high with a door, however, larger cabinets as standard may be accepted
- The cabinet must be able to accommodate at least two (2) additional modules in addition to the basic specs and be able to interface with a security system
- The enclosure should be capable of adding 110-volt service so that 3rd party devices can be installed in the enclosure
- Surge protection for the CATV, telephone and data modules is encouraged but not required

001527 JAN 30 88

Outbuildings: No storage shed shall be allowed on any lot. Other types of outbuildings, such as pool equipment and/or changing room facilities may be allowed, providing they are approved, as to design, location and landscaping, by the ACC. No outbuilding shall be constructed on any lot prior to the commencement of construction of the single-family residence on such lot. All lot owners are further advised that outbuilding construction is also subject to applicable zoning ordinances, and may be prohibited or restricted unless a variance or conditional use permit is obtained.

Additional requirements: All homes are subject to further restrictions based on whether the lot is a "Water Feature Lot" or a "Non-Water Feature Lot", as defined and outlined below.

A. Water Feature Lots: All lots that have property abutting Outlot 1, Block D containing the Water Feature (defined below) shall be subject to the following requirements:

1. Minimum square footage:
 - i. One-story houses shall have a minimum square footage of living space of not less than 2,300 square feet.
 - ii. One and one-half story houses, defined as a home with at least one bedroom on the first floor, shall have a minimum square footage of living space of not less than 2,800 square feet total, with not less than 1,600 square feet of living space on the first floor.
 - iii. Two-story houses shall have a minimum square footage of living space of not less than 2,800 square feet total with not less than 1,400 square feet on the first floor.
 - iv. Split level houses (three or more levels) shall have a minimum square footage of living space of not less than 2,800 square feet total on the upper two levels.
 - v. No Bi-level houses shall be allowed on any lot.
2. A minimum of 50% of the front of each home must consist of full brick, natural stone, cultured brick, cultured stone, EIFS and/or stucco, and must terminate at an inside corner or have an acceptable terminating point.
3. No exposed poured concrete or concrete block over eight (8) inches above grade shall be permitted on any house. Any exposure over eight (8) inches, below the first floor, must be covered by full brick, natural stone, cultured brick, cultured stone, EIFS and/or stucco.
4. All exterior chimney chases must consist of full brick, natural stone, cultured brick, cultured stone, EIFS and/or stucco.
5. Side entry or courtyard entry type garage are encouraged, however, the ACC shall have the discretion to allow front entry garages based upon aesthetic and practicality issues.
6. The main roof of each one-story home shall have a roof pitch of no less than ten feet (10') in height for every twelve feet (12') in length. The main roof of each one and one-half story or two-story home shall have a roof pitch of no less than eight feet (8') in height for every twelve feet (12') in length. Any auxiliary

C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake 01-06.doc

Page 6 of 21

gables which face the public street shall have a roof pitch of no less than twelve feet (12') in height for every twelve feet (12') in length. All roof pitches shall be subject to ACC review and approval. Accent shed roofs may be allowed at a lower pitch subject to ACC approval.

7. In-ground swimming pools are prohibited.

B. Non-water Feature Lots: All lots that do not have property abutting Outlot 1, Block D shall be subject to the following requirements:

1. Minimum square footage:
 - i. One-story houses shall have a minimum square footage of living space of not less than 1,900 square feet.
 - ii. One and one-half story houses, defined as a home with at least one bedroom on the first floor, shall have a minimum square footage of living space of not less than 2,200 square feet total, with not less than 1,200 square feet of living space on the first floor.
 - iii. Two-story houses shall have a minimum square footage of living space of not less than 2,200 square feet total with not less than 1,000 square feet on the first floor.
 - iv. Split level houses (three or more levels) shall have a minimum square footage of living space of not less than 2,200 square feet total on the upper two levels.
 - v. No Bi-level houses shall be allowed on any lot.
2. A minimum of 25% of the front of each home must consist of full brick, natural stone, cultured brick, cultured stone, EIFS and/or stucco, and must terminate at an inside corner or have an acceptable terminating point.
3. If the chimney chase is a prominent architectural feature and highly visible, ACC may require masonry (full brick, natural stone, cultured brick, cultured stone, EIFS and/or stucco) on the chase.
4. Side entry or courtyard entry type garage are encouraged, however, front entry garages shall be allowed.
5. The main roof of each one-story, one and one-half story or two-story home shall have a roof pitch of no less than eight feet (8') in height for every twelve feet (12') in length. Any auxiliary gables which face the public street shall have a roof pitch of no less than twelve feet (12') in height for every twelve feet (12') in length. All roof pitches shall be subject to ACC review and approval. Accent shed roofs may be allowed at a lower pitch subject to ACC approval.
6. In-ground swimming pools will be allowed, however, the size and location must be approved by the ACC. Fences to enclose in-ground pools will be allowed subject to ACC approval.

7. COMMENCEMENT OF AND COMPLETION OF CONSTRUCTION

Before any construction shall be commenced on any lot the driveway shall be rough graded in a horizontal location and with a vertical alignment as approved by the ACC. All access to and from the home site construction area by material suppliers, contractors and other individuals shall be by this driveway location and no other means or way. This covenant is primarily for the protection of natural amenities of the site.

Any exterior construction commenced shall be completed within a one-year period and shall be ready for occupancy within that period. Also, within six (6) months of occupancy or within one and one-half (1 ½) years of the commencement of construction, whichever date shall occur first, the owner of such lot shall landscape any area disturbed by construction, and shall complete all landscaping in accordance with the plans and specifications approved by the ACC, subject to weather restrictions.

During the time of construction the lot owner shall be responsible to see that his or her contractor maintains a constant cleanup of all scraps, paper or other waste materials, and all dirt and mud tracked onto public streets, and that all access to the site is through the approved driveway, and by no other means or way. The lot owner shall further be responsible for the repair of any and all damage to the public right-of-way adjacent to the lot, including but not limited to any pavement, sidewalk, curb, gutter, ditch, swale and/or culvert, and to any drainage ditches, swales and/or other drainage facilities on the lot, occurring prior to completion of construction. In the event that the owner or his contractor shall fail in this responsibility the Developer shall have the right to perform the necessary cleanup and/or make the necessary repairs and to charge the construction deposit and/or obtain reimbursement for the expense incurred by the Developer or Owner's Association, as the case may be.

During any earth moving activities, proper erosion control practices shall be installed to prevent sediment entering storm water drainage ways or leaving the immediate construction site. Erosion control including the stabilization of each lot with permanent grass must comply with the City erosion control ordinance.

8. CONSTRUCTION DEPOSIT

At the time of closing on a lot a construction deposit in the amount of Two Thousand Dollars (\$2,000.00) shall be collected from the buyer and held in an escrow account by the Developer. The Developer shall have the right to assign and transfer the Construction Deposit Escrow to the Owner's Association. The entity holding the Construction Deposit Escrow shall be entitled to retain any and all interest earned thereon. These funds are to assure the compliance with the covenants and restrictions set forth in this Declaration, including, but not limited to:

- 1.) requirements dealing with contractor cleanup, use of the approved driveway and repair of damage to pavement, sidewalks, curbs, gutters, ditches, swales and/or culverts;
- 2.) assure compliance with the landscaping requirements set forth in this Declaration
- 3.) assure compliance with the architectural covenants, restrictions and requirements contained herein and as approved by the ACC; and
- 4.) assure compliance with the storm water management practice obligations of the lot owner pursuant to Section 36 of this Declaration .

In the event the lot owner and/or the lot owner's contractors fail to comply with any of these requirements and in the event the Developer or Owner's Association, as a result of such noncompliance, undertakes any action, cleanup, repair and/or replacement, and/or is charged or

C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake
01-06.doc

assessed by the City for same, the Developer or Owner's Association shall be entitled to deduct and retain from the construction deposit a sum sufficient to reimburse Developer or Owner's Association for all costs and expenses incurred by Developer or Owner's Association for such costs and expenses. In the event the lot owner and/or the lot owner's contractors fail to comply with the architectural or other requirements or provisions of the Declaration, and in the event Developer or Owner's Association retains an attorney to pursue enforcement of said requirements and/or provisions, the Developer or Owner's Association shall be entitled to deduct and retain from the escrow a sum sufficient to reimburse Developer or Owner's Association for all costs and expenses, including but not limited to reasonable actual attorney's fees, incurred by Developer or Owner's Association with respect to such enforcement. In the event the escrowed amount is not sufficient to fully reimburse Developer or Owner's Association for cleanup and/or repair expenses, charges and/or assessments, and/or for costs, expenses and reasonable attorney's fees relating to enforcement of architectural requirements, the owners of the lot shall be jointly and severally liable to Developer or Owner's Association for any excess. In the event that no deductions are made, or in the event there is a balance remaining after all deductions, the balance in the escrow account shall be returned to the owner within thirty (30) days of the installation of the final lift of asphalt on the public street abutting the subject lot.

9. BUILDING SETBACKS

It is one of the intentions of the covenants and restrictions to create a completed community whose site plan is varied and well integrated to the overall site surroundings as well as the specific lot.

All lot setbacks shall be approved in writing by the ACC, and are subject to the approval of the City of Waukesha Engineering Department. The minimum setbacks for a Single Family Residence shall be:

1. Twenty-Five (25) feet from any abutting street right-of-way.
2. Ten (10) feet from any side yard.
3. Forty (40) feet from any rear yard.

If any lot owner desires to rotate its proposed single-family residence to face toward the corner of a lot, the ACC reserves the right to determine the street yard setbacks that the Developer believes to be most beneficial to the overall appearance of the Subdivision.

The site plan for each lot will be reviewed with respect to achieving the above goals and avoiding monotony or noticeable similar placement of homes to those existing or previously approved. In achieving these goals, offsets greater than those specified above may be required by the ACC. Further, the ACC, in its sole discretion, may alter the offsets to the minimum allowed by the City if it determines, in its sole discretion, that terrain conditions and/or preservation of existing trees so require.

10. DRIVEWAYS

The owner of each lot shall, within six (6) months of the date of issuance of an occupancy permit of a residence on a lot, install a hard surfaced concrete, brick or stone paver, or asphalt driveway. Said driveway shall extend from the vehicle entry to the garage to an intersection with the public street. The driveway shall have a minimum of a three (3) foot side yard setback, unless otherwise approved in writing by the ACC (in its sole discretion).

11. HEIGHT OF GRADE AND BUILDING PADS

C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake 01-06.doc

Page 9 of 21

No owner of any lot, nor any person or persons claiming under the lot owner, shall or will at any time alter the grade of any lot or outlot from that which is naturally occurring on that lot at the time the site development improvements have been completed by the Developer, except to the extent required to comply with the Master Grading Plan or any amendment thereto approved by the City Engineer on file in the office of the City Clerk, unless and until the property owner shall first obtain the written approval of the ACC and the City for such grade alterations.

In order to obtain this approval it shall first be necessary for the property owner, at his or her expense, to have prepared a grading plan which shows in detail the area to be re-graded, the existing and proposed topography, analyzes the effects on site drainage, and is a plan which does not unreasonably affect an adjacent lot owner as regards drainage or their viewing of unreasonable slope treatment.

Each lot owner must strictly adhere to and finish grade their lot in accordance with the Master Grading Plan or any amendment thereto approved by the City Engineer on file in the office of the City Clerk. The ACC and/or the City of and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the lot owner is responsible for cost of the same.

Subdivision grading has been performed with the intention that home construction on each lot take place within a building pad area as shown on the Master Grading Plan. Construction of the home and/or other improvements beyond the limits of such building pad area may result in an increased risk of encountering adverse subsoil conditions.

12. NUISANCES

No noxious or offensive activities shall be carried on upon any lot or outlot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

13. OUTDOOR STORAGE

No boat, unlicensed vehicle, inoperable vehicle, recreational vehicle, vehicle licensed as a truck, or trailer of any kind may be parked or stored on any lot outside of a building for any time period in excess of 24 hours in any calendar week, except for trucks and/or trailers used during construction or remodeling periods. The term "recreational vehicle" shall mean any vehicle used primarily for pleasure or recreation, and shall include, but not be limited to: snowmobiles, trail bikes, travel trailers and campers, motor homes, and off road vehicles of any kind.

14. UTILITY RESTRICTIONS

All lots shall be provided with electric, natural gas, and telephone service by means of underground installation only. No residence or other building or structure on any lot shall be serviced by the use of any secondary overhead service wires. All costs and expenses involved in installing underground utility service connections on any lot between the utility companies' secondary pedestals and the buildings on any lots shall be paid by the owner of said lot.

15. ANIMALS, LIVESTOCK AND POULTRY

No animals, livestock or poultry shall be raised, bred or kept on any lot, except that dogs, cats and/or other customary household pets shall be permitted provided they are not raised, bred and/or kept for commercial purposes.

16. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one sign not more than two square feet in size identifying the property of the owner, one sign not more than six square feet in size advertising the property for sale or rent, a sign used by a builder to advertise a residence for sale, or as a model home, but only during the construction and sales period, such signs as may be used by the Developer in conjunction with initial lot sales in the Subdivision, or one or more Subdivision entrance signs erected by the Developer and/or by the Association.

17. LAWN AND YARD

In addition to the normal maintenance and mowing of lawn areas on a lot, the owner of each lot shall also maintain the lawn and yard area in front of the lot from the property line (front lot line) to the back of the curb and gutter section or shoulder of the public roadway. In addition to mowing the area between the lot line and the road, the lot owner shall keep this area free of debris and in all other ways properly maintained. Notwithstanding the foregoing, the Association, in its sole discretion, shall have the right, but not the responsibility, to undertake mowing and/or other lawn maintenance within the common areas, as created by this Declaration, together with the area between the front lot line and the road, throughout the Subdivision, and to charge the cost thereof as a common expense.

18. ANTENNAE

No exterior antennae, other than one dish type antenna not exceeding thirty (30) inches in diameter, shall be allowed on any lot. With respect to dish antennas not exceeding thirty (30) inches in diameter, they shall not be attached to the front of any house, nor shall same be located in the front yard of the residence.

19. FENCES

It is the intention to preserve the open natural feeling of Fox Lake Village Subdivision's environment. Therefore, no barrier fences or containment fences may be erected on or adjacent to any lot line. With regard to swimming pools, only fencing required to meet governmental regulations, will be permitted. Properly designed and located kennels not exceeding 100 square feet in size for household pets will be approved providing they are properly screened from public view by landscaping. No chain link type fences shall be allowed on any lot.

20. MAILBOX / NEWSPAPER BOX

Each lot shall have a uniform mailbox and newspaper box on a uniform post. The design and specifications of the mailbox, newspaper box and post, including size, style, color and materials, shall be such as is determined by the ACC, so that all mailboxes, newspaper boxes and posts have a uniform appearance throughout the Subdivision. Purchasers of lots from the Developer shall purchase the mailbox and mailbox post from the Developer at time of

C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake
01-06.doc

Page 11 of 21

closing. Developer shall have the right to elect to install the mailboxes, newspaper boxes and posts, and to collect from lot owners, at closing on the lot sale, a reasonable charge for installing same. The Owner's Association shall have the right to assume all or part of the responsibility for maintaining, repairing and/or replacing mailboxes, newspaper boxes and/or posts, and to charge the cost thereof as a common expense. To the extent not assumed by the Association, the lot owner shall be responsible for maintaining the mailbox, newspaper box and post in a first class condition at all times.

21. ELECTRIC LAMPPOST

At the time of construction of a residence, the owner of residence shall install, at the owner's expense, one (1) outdoor electric lamppost (the design and quality of which shall be specified by Developer), with an unswitched photoelectric cell, at a location on the lot deemed appropriate to the Subdivision, at the Developer's discretion. The lamppost shall be maintained by the owner, at the owner's expense, in a proper operating manner. If the owner fails to maintain the lamppost in proper operating order, maintenance of the lamppost may, fifteen (15) days after date of mailing of written notice to the owner, be performed by the Developer and/or the Association, and the cost of such maintenance shall be a Special Assessment against the owner.

22. EASEMENTS

The Developer at its sole discretion may grant easements to the public utilities that will service the lots at Fox Lake Village Subdivision.

23. GOVERNMENT RESTRICTIONS

The Developer, its successors and assigns, and all parties hereafter having an interest in the property, are subject to all rules, codes, regulations and ordinances of the City, Waukesha County, the State of Wisconsin and the Federal Government, and the same may be more restrictive than these restrictions. In the event there is a conflict between the requirements of these restrictions and any provision of any City, County, State or Federal law or regulation, the more restrictive provisions shall apply. Nothing herein authorizes any modification of, nor does it authorize the ACC to modify in any way, the rules, codes, regulations and ordinances of the City, Waukesha County, the State of Wisconsin and the Federal Government. No release or waiver by the public body and/or public utility requiring same shall be effective unless it is in writing and approved by the governing body.

To the extent that any specific restriction contained herein is the same as, or is substantially similar to, any specific restriction set forth in or on the Subdivision plat, the Developer's Agreement, and/or any approval obtained in conjunction with the development of this Subdivision, the inclusion of such restriction herein shall be deemed to constitute the recitation of the restriction required by the public body and/or public utility requiring same, such that same may be enforced, released or waived by the public body and/or public utility having the right of enforcement, in accordance with Sec. 236.293, Wis. Stats., whether or not enforcement rights with respect to such specific restriction are also granted herein to the Owner's Association and/or any other lot owner. The foregoing shall apply only with respect to specific provisions hereof which were specifically required by a public body, and shall not apply to any general requirement that the Developer establish Subdivision restrictions, any general approval of these restrictions by any public body, and/or the mere fact that a public body and/or public utility is granted any enforcement rights herein.

C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake 01-06.doc

Page 12 of 21

24. DEVELOPER'S AGREEMENT

A Developer's Agreement has been entered into by and between the Developer and the City, a copy of which is on file in the office of the City Clerk of the City of Waukesha. The terms and conditions of the Developer's Agreement are hereby incorporated by reference.

25. AMENDMENTS TO DECLARATION

This Declaration may be annulled, waived, changed, modified or amended solely by the Developer or assigns as long as the Developer or assigns owns any lot in the Subdivision. Then thereafter, any modification to this declaration setting forth said change must be executed by the owners of at least sixty percent (60%) of the lots in the Subdivision. Further, no amendment shall become effective unless and until same is duly recorded in the office of the Register of Deeds for Waukesha County, Wisconsin. In the event there is more than one (1) owner of any lot in the Subdivision, the execution of any amendment by any one (1) or more of said owners of such lot shall be deemed sufficient for the purpose of approving and executing any amendment, without the requirement that the other owner(s) of such lot join in the execution of such amendment, unless such other owner or owners of said lot have recorded in the Office of the Register of Deeds for Waukesha County, Wisconsin, prior to the date of execution of such amendment by any other owner of such lot, a notice setting forth the fact that approval of any amendment on behalf of such lot shall not be effective without the approval of the owner filing such notice. In no event shall this section be construed so as to require the Developer to obtain the approval of any lot owner to make any amendment to this Declaration, which is expressly permitted by any provision of this Declaration to be made by Developer alone.

26. ASSIGNMENT

All Developer's rights pursuant to this Declaration may be assigned by Developer to one or more successor developers.

27. ENFORCEMENT

The restrictions and covenants herein contained may be enforced by the Developer, by the Owner's Association created pursuant to the provisions of this Declaration of Restrictions, and/or by any lot owner in the Subdivision, by proceedings at law or in equity against any person or persons violating or attempting to violate same. The proceedings may seek to recover damages and/or demand compliance. No enforcement action by the Developer, by the Owner's Association created pursuant to the provisions of this Declaration of Restrictions, and/or by any lot owner in the Subdivision with respect to the construction, placement or alteration of any structure or improvement on any lot shall be commenced more than one (1) year after the completion of the construction, placement or alteration of such structure or improvement. Nothing herein contained shall be construed so as to require that the Developer or the Owner's Association undertake any enforcement action.

28. TERM

These restrictions shall run with the land and shall be binding upon all parties and persons having any interest in the land affected hereby for an initial period of forty (40) years from the date this Declaration of Restrictions is recorded, and thereafter shall continue for the full duration of the statutory limitation period for actions to enforce easements or covenants

C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake
01-06.doc

Page 13 of 21

restricting the use of real estate (currently codified at Section 893.33 (6), Stats, but including any future amendments, modifications or re-numbering of that section).

29. SEVERABILITY

Invalidity of any provision of this Declaration, regardless of how determined, shall in no way affect any of the other provisions, which shall remain in full force and effect.

30. OWNER'S ASSOCIATION

An Owner's Association shall be created by the Developer for the purpose of managing the affairs of the Subdivision, and for the purpose of managing, controlling and maintaining common areas, common improvements and common easements. Said Association shall be established as follows:

A. The Association shall be a non-stock, non-profit corporation. Each lot owner shall be a member of the Association, and each lot shall be entitled to one (1) vote at meetings of the Association. Membership shall pass with title to each lot.

B. The Association shall be governed by a Board of Directors, consisting of not less than three (3) directors, who shall act by majority vote. So long as any vacant lot in the Subdivision is owned by Developer, Developer shall be entitled to appoint a sufficient number of the directors such that the directors appointed by Developer constitute a majority.

C. Each lot in the Subdivision shall be subject to assessment by the Association for an equal share of the Association's existing or anticipated expenses, which assessments shall constitute a lien on the lot, and, except as set forth below with respect to Waukesha County and/or the City, the personal obligation of the lot owners, until paid. In the event Waukesha County and/or the City become the owners of any lot through the tax delinquency process, the foregoing provision shall not be deemed to supersede any law limiting or eliminating the liability of the County or the City with respect to fees or assessments imposed by this Declaration. Further, in the event Waukesha County and/or the City become the owners of any lot through the tax delinquency process, neither the County nor the City shall have any personal obligation for the payment of Association assessments.

D. "Special Assessments" may be made and levied by the Association against a particular lot owner and his, her or their lot (without levying against other lots) for:

- 1) costs and expenses (anticipated or incurred) for repair of damage to common areas caused by or at the direction of the lot owner or the family or guests of the lot owner;
- 2) costs, expenses and actual attorneys fees incurred in, or in anticipation of, any suit, action or proceeding to enforce this Declaration against the lot owner;
- 3) interest due on general or special assessments;

- 4) all other costs and expenses anticipated or incurred by the Association which are subject to special assessments as provided under this Declaration; and
- 5) costs, expenses and actual attorney's fees incurred in or in anticipation of, any suit, action or proceeding brought against the Owner's Association.

E. "General Assessments" may be made and levied by the Association equally against each lot owner and his, her or their lot for the following "common expenses" which may be anticipated, incurred or paid by the Association for:

- 1) maintenance, repairs, upkeep or operation of common areas, including but not limited to the Water Feature (defined below), and any additional common areas that may be acquired by the Association;
- 2) any insurance maintained by the Association;
- 3) taxes, assessments and charges of any kind made or levied by any governmental authority against the Association or upon any property of the Association;
- 4) all costs and expenses for the operation and administration of the Association, including legal, accounting, management fees, bonding, insurance and other costs incident to the exercise of any of its powers or obligations;
- 5) costs and expenses for additional improvements to common areas beyond those installed by Developer and approved by the Association;
- 6) all items subject to special assessment which have not been collected from a lot owner at the time such payments are due; provided that upon collection of the special assessment from that lot owner, all other lot owners shall receive an appropriate adjustment, reimbursement or credit on future general assessments, as the ACC may determine, for payments made under this paragraph;
- 7) all damages, costs, expenses and attorneys fees incurred in, or in anticipation of, any suit or proceedings (whether administrative, legislative, judicial) which are not otherwise collected by special assessment;
- 8) costs and expenses of service, if any, made available to all lots and/or for any common area; and
- 9) All other costs and expenses declared to be common expenses under this Declaration.

The general assessments for all common expenses shall be levied equally against each lot. Each lot owner shall promptly pay, when due, all general and special assessments levied by the Association against such owner and his, her or their lot, together with all costs, expenses and reasonable attorney fees incurred by the Association in collection of any delinquent assessment(s). All assessments shall become due as the Association may determine appropriate (in a lump sum or in installments with or without interest.) Time is of the essence with respect to all payments.

All co-owners of a lot shall be jointly and severally liable for all general and special assessments levied against the lot, regardless of the type of tenancy, estate

or interest in the lot (whether as joint tenants, tenants-in-common, land contract purchaser(s) or seller(s), or otherwise.)

All general and special assessments which are not paid when due: shall bear interest at eighteen percent (18%) per annum until the assessment is paid in full; shall constitute a lien on the lot; and shall be collectible and enforceable by the Association by suit against the lot owner, by foreclosure of the lien, and/or in any other manner or method provided under this Declaration or laws of the State of Wisconsin.

The lien granted hereunder shall also cover and include all interest accruing on the delinquent assessments, plus costs, expenses and attorney's fees for collection.

The Association shall have the exclusive right and power to collect or enforce collection of all general and special assessments levied by the Association. They shall further have the exclusive right to bring any and all actions and proceedings for the collection thereof and/or the enforcement of liens arising therefrom. The Association may bring an action at law against any lot owner personally to collect such assessments and/or to foreclose the lien for such assessments against the lot (in the same manner and method as an action to foreclose a real estate mortgage.) The Association shall have the right at any time to notify all lot owners within the Subdivision of the delinquency of any lot owners.

F. The Articles and By-Laws of the Association shall contain such additional provisions, as Developer may deem appropriate at the time of establishment of the Association.

G. In the event any further division of any lot (whether by Subdivision Plat, Certified Survey Map, and/or other legal land division) creates additional residential lots within the Subdivision, each lot so created shall have equal membership and voting rights in the Association, and be subject to assessment for an equal share of the Association's existing and anticipated expenses, with all other lots in the Subdivision.

31. OUTLOTS.

The Fox Lake Village Subdivision Plat contains common areas designated as outlots (collectively the "Common Outlots"). Each lot in Fox Lake Village shall be deemed to include an equal undivided ownership interest in said Common Outlots, unless such outlot is designated on the Plat to be owned by the Homeowners Association or other entity, and each conveyance of a lot in Fox Lake Village shall be deemed to include the conveyance of such undivided interest, whether or not specifically set forth in the instrument of conveyance. Developer retains the right to grant easements within any of the Common Outlots.

32. WATER FEATURE.

Outlot 1, Block D contains a man-made water feature approximately 23 acres in size (the "Water Feature"). The water feature provides storm water management functions which benefit all of the lots in the Subdivision and as a result, all costs and expenses incurred by the Association in maintaining the Water Feature shall be shared equally among all lots in the Subdivision. The use of the Water Feature for recreational purposes shall be reserved solely to

C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake

01-06.doc

Page 16 of 21

those lots in the Subdivision that contain land that abuts and is directly adjacent to Outlot 1, Block D. THERE SHALL BE NO PUBLIC ACCESS TO THE WATER FEATURE, NOR SHALL ANY LOT IN THE SUBDIVISION WHICH DOES NOT DIRECTLY ABUT OUTLOT 1, BLOCK D HAVE ANY RIGHTS TO ACCESS OR UTILIZE THE WATER FEATURE. The use of the Water Feature for any recreational purposes shall be governed by and subject to rules and regulations adopted by the Association. The Association shall have the right, from time to time, to adopt, amend and/or modify rules and regulations governing the use of the Water Feature. Notwithstanding the foregoing, the following restrictions shall apply to the Water Feature and all lots abutting the Water Feature:

- A. Boats or floating devices must be stored in a garage or enclosed area when not in use. In no event shall any boat or floating device be stored or left in the yard of any lot.
- B. Piers shall be prohibited.
- C. Swimming in the Water Feature shall be prohibited.

33. WATER FEATURE MAINTENANCE.

The Association shall maintain the Water Feature in accordance with the Storm Water Management Practice Maintenance Agreement dated January 27, 2006, as may be amended from time to time (the "Storm Water Management Practice Maintenance Agreement"), recorded at the Office of the Register of Deeds for Waukesha County. The Storm Water Management Practice Maintenance Agreement may be modified by the Association from time to time, provided approval of any such modification is received from all governmental bodies having jurisdiction over the Water Feature, including, but not limited to, the City of Waukesha.

34. MULTI-FAMILY PARCELS - CONTRIBUTION TO MAINTENANCE OF WATER FEATURE.

Outlot 1, Block G of the Plat for Phase I of the Subdivision consists of a multi-family parcel. In addition, another multi-family parcel will be established as an outlot on one of the future phases of the Subdivision (said outlots being referred to collectively as the "Multi-Family Parcels"). The Multi-Family Parcels will benefit from the existence and operation of the Water Feature for storm water maintenance. As a result, the Developer shall establish deed restrictions pertaining to the Multi-Family Parcels that requires the owner or owners of said parcels to make annual payments to the Owner's Association as their/its contribution for the costs and expenses associated with maintaining the Water Feature, including reserves for future capital expenditures. The owner or owners of a Multi-Family Parcel shall pay to the Owner's Association the following:

- 1.) On or before January 30th of each calendar year, the sum of \$50 per Living Unit (defined below) contained in any building for which a building permit was issued by the City during the previous calendar year.
- 2.) Once a building permit has been issued for a building containing a Living Unit, the \$50 per Living Unit fee shall be paid to the Owner's Association on an annual basis on or before January 30th.
- 3.) On January 1, 2010 the per unit fee shall be increased by \$5 to \$55 per Living Unit, and said fee shall be increased by additional \$5 per Living Unit every five (5) years thereafter (i.e. on January 1, 2015, January 1, 2020 etc.) to account for inflation.

A "Living Unit," as used herein, shall mean each residential unit contained in a building that can be utilized for living purposes. For example, a building containing eight (8) condominium units shall be deemed to contain eight (8) Living Units and each condominium unit within such a building shall be deemed a "Living Unit." The developer of any buildings on the Multi-Family Parcels may require the purchaser of any condominium unit within said parcel, or the condominium owner's association for said parcel, to assume the responsibility for the payments prescribed in this paragraph.

35. MAINTENANCE OF DRAINAGE EASEMENTS, WATER FEATURE, COMMON AREAS, SUBDIVISION SIGNAGE AND MONUMENTS

The Association has the responsibility to properly landscape and maintain all common areas, street islands and Subdivision entrance signage within the Subdivision, all portions of any entrance signs, entrance monuments, fencing and the landscaping associated with same which are located in whole or in part within any City right-of-way and all non-standard street signs. Said maintenance includes repair or replacement resulting from damage caused by any reason including snowplowing operations. Further, the Association without regard to reason, shall indemnify and hold the City harmless for any claim of liability or damage, regarding the signs, monuments, fencing or associated landscaping located within City right-of-ways. Subject to the provisions of this paragraph, the Association further has the responsibility of properly maintaining all drainage easement areas located within the individual lots which are subject to this Declaration of Restrictions and the Water Feature and all drainage easement areas within Common Outlots. Maintenance of the Water Feature shall include, but not necessarily be limited to, preservation of the embankments; prevention of erosion, repair and replacement of fountains and pumping systems, and dredging if and when necessary. In the event the Association does not properly landscape, repair and/or maintain Common Outlots, street islands, Water Feature and Subdivision entrance signage within the Subdivision and/or drainage easement areas on individual lots and/or within Common Outlots, and/or entrance signs, entrance monuments, fencing and the landscaping associated with same which are located in whole or in part within any City right-of-way, and/or non standard street signs, the City may send written notice to the Association setting forth which of said items the City has determined are not properly landscaped, repaired and/or maintained, and stating that the City may perform such landscaping repair and/or maintenance if not properly done by the Association. The above-referenced notice shall give the Association a minimum of fifteen (15) days to correct the problem, unless the City determines, in its discretion, that a shorter notice period is appropriate due to a hazardous condition requiring more immediate action. If at any time, the City should determine, for any reason whatsoever, that the entrance signs, entrance monuments, fencing and/or associated landscaping within a right-of-way should be removed, the City may send written notice to the Association setting forth which of said items the City has determined must be removed, and stating that the City may perform such removal if not properly done by the Association. The above-referenced removal notice shall give the Association a minimum of sixty (60) days to perform such removal. If such landscaping, repair, maintenance and/or removal is not performed within the time granted by either of the above-referenced notices, and/or if the City determines, in its discretion, that immediate action, without notice, is required due to an imminent threat of damage to persons or property, the City shall then have the authority, but not the obligation, to undertake such landscaping, repair, maintenance and/or removal and shall have the right to charge the lot owners on a pro rata basis for any costs incurred by the City as a result of said landscaping, repair, maintenance and/or removal. Said costs shall be assessed as special charges pursuant to section 66.0627, Wis. Stats. If such charges are not paid by any lot owner within the period fixed by the City, such charges shall become a lien upon the tax rolls as a delinquent tax against the lot owner's lot as provided in Section 66.0627, Wis. Stats.

C:\DOCUME~1\MCIBW0~1\WTD\LOCALS~1\Temp\Declaration of Restrictions - Fox Lake
01-06.doc

Page 18 of 21

36. INITIAL HOME CONSTRUCTION REQUIREMENTS AND DAY-TO-DAY MAINTENANCE OF STORM WATER DETENTION AND DRAINAGE EASEMENT AREAS

In connection with the construction of each single-family home on a lot, each lot owner shall be required to comply with the terms and conditions set forth in the Storm Water Management Practice Maintenance Agreement (which pertains to the entire Fox Lake Village Subdivision and which has been executed by the Developer in accordance with Chapter 32 of the City of Waukesha Municipal Code and recorded at the office of the Register of Deeds for Waukesha County) that pertain to the lot owner and their construction activities on a lot, which include items such as the installation of silt fencing near storm water detention facilities and the covenant not to disturb sensitive vegetation planted along storm water management areas. The day-to-day maintenance of any drainage easement area located on an individual lot shall be the responsibility of the owners of such lot. Day to day maintenance includes such items as cutting grass, raking leaves, removing fallen trees and branches, and removing other minor obstructions. This paragraph shall not limit the City's authority of enforcement against the Association, as described above.

37. PARADE OF HOMES

Seller discloses that Seller has arranged for the Subdivision to be included in the 2006 Parade of Homes sponsored by the Metropolitan Builders Association ("MBA") in which members of the public are invited to inspect, at one time, a number of lots improved by buildings constructed by one or more contractors. Such event may result in temporary periods of significant construction activity, traffic slow downs and large crowds, and may continue for a period of several weeks. By acceptance of a deed or other conveyance to a lot in the Subdivision, an owner is deemed to acknowledge the possibility of such an event and is deemed to have waived any objection to the issuance of any municipal permits required for such event. During the Parade of Homes, scheduled for August 19 through September 10, 2006, or such other dates as may be established by the MBA, the Buyer will be bound by the following conditions:

- a. All construction activities must stop by 2:00 pm on weekdays and 10:00 am on weekends and Labor Day.
- b. All debris shall be disposed of properly and the streets in front of the lots are to be swept clean of mud and stone.
- c. Parade models may not be opened as a model before the Parade of Homes begins.
- d. Non-parade models may not be open during the Parade of Homes.
- e. No home or lot shall display any signs indicating the builder, subcontractors, or any property for sale during the duration of the Parade, except those signs allowed in accordance with the MBA's rules and regulations. Buyer may contact the MBA for signage rules and regulations.
- f. In the event the Property is a vacant unimproved lot during the Parade, the Buyer will allow Parade of Homes parking on their vacant lot during the Parade; provided it does not interfere with Buyer's construction process. There will be no compensation for the use of the Property for parking during the Parade.
- g. Vehicular access to the Property may be prohibited during the hours of the Parade. If the Property is located where pedestrian traffic occurs during the Parade, vehicular traffic will be denied for safety issues.

39. EXPANSION OF THE SUBDIVISION

001542 JAN 30 88

**EXHIBIT A
LEGAL DESCRIPTION**

(Fox Lake Village Lots and Common Outlots)

**FOX LAKE VILLAGE, BEING A RESUBDIVISION OF LOT 1A & LOT 3 OF C.S.M. 6776 AND
OTHER LANDS, ALL BEING PART OF THE NW, NE, SW & SE 1/4's OF THE NE 1/4 OF SEC.
29 AND PART OF THE SW 1/4 & NW 1/4 OF THE NW 1/4 OF SEC. 28 T6N, R19E, CITY OF
WAUKESHA, WAUKESHA COUNTY, WISCONSIN.**

000403 OCT 17 8



WC3428333-007

Second Amendment to
Declaration of Restrictions for
Fox Lake Village Subdivision

3428333

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

10-17-2006 9:53 AM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 16.00
REC. FEE-CD: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 7

THIS SPACE RESERVED FOR RECORDING DATA

This instrument was drafted by and should be returned to,
CRAIG A. CALIENDO
Kings Way Homes, LLC
700 Pilgrim Parkway
Elm Grove, WI 53122

Parcel I.D. No.: _____

82
23
7

SECOND AMENDMENT TO DECLARATION OF RESTRICTIONS FOR FOX LAKE VILLAGE SUBDIVISION

WHEREAS, the undersigned, FOX LAKE VILLAGE DEVELOPMENT, INC., a Wisconsin corporation ("Developer"), is the developer of the Fox Lake Village Subdivision described on Exhibit A attached hereto and incorporated herein by this reference (the "Subdivision"); and

WHEREAS, Developer has executed and recorded at the Office of the Register of Deeds for Waukesha County, Wisconsin, a Declaration of Restrictions for Fox Lake Village Subdivision, dated January 27, 2006 and recorded on January 30, 2006, as Document No. 3357870, as amended by the First Amendment to the Declaration (the "Declaration"); and

WHEREAS, the Developer is currently the fee owner of several lots the Subdivision and pursuant to Section 25 of the Declaration retains the right to amend and modify same.

NOW THEREFORE, the Declaration is hereby amended as follows (Any defined terms used in this Amendment which are not specifically defined herein shall be ascribed the defined meaning set forth in the Declaration.):

1. **Storm Water Management Area.** The term "Storm Water Management Area" shall replace the term "Water Feature" wherever it occurs in the Declaration. Outlot 1, Block D of the Subdivision is designed to provide storm water management functions. The level of water within this area may fluctuate from time to time depending on variables such as weather conditions, drought etc. Water levels within the Storm Water Management Area cannot be guaranteed and no representation or warranty is made with respect thereto.
2. **ACC Guidelines.** The ACC shall have the right, from time to time, to adopt requirements and guidelines for building construction and improvements within the Subdivision (the "Guidelines"). The Guidelines are designed to create greater specificity with respect to certain requirements set forth in the Declaration. Although the terms and conditions of the Declaration shall control in the event of a direct conflict between the terms set forth in the Declaration and those set forth in the Guidelines, with respect to any matter upon which the Declaration is silent, or with respect to a matter upon which the Guidelines provide greater specificity, the Guidelines shall control.
3. **Curb Cuts, Driveway Approaches and Driveway Width Restrictions.** Each lot owner is responsible for the installation of the curb cut and driveway approach for their lot and must contact the Engineering Department, City of Waukesha, (262-524-3600, 130 Delafield Street, Waukesha) for further information regarding the requirements and specifications for same and to obtain the appropriate permit. NO CURB CUTS OR DRIVEWAY APPROACHES ARE TO BE CONSTRUCTED UNTIL AFTER THE SIDEWALK INSTALLATION ADJACENT TO THE SUBJECT LOT IS COMPLETE. The maximum width of each driveway in the Subdivision at the sidewalk (on both the street side and

000105 OCT 17 8

house side) shall be 18' and shall taper gradually to the edges of the curb cut and garage. The ACC, in its sole discretion, shall have the right to allow a driveway width as great as 24' at the sidewalk for a driveway servicing a 3-car garage, if the ACC determines that a width greater than 18' is necessary under the circumstances and does not compromise the aesthetic integrity of the Subdivision. *The driveway width variance will only be granted in special situations where the additional width is deemed necessary to gain access to the garage and the owner has agreed to install other improvements (i.e. enhanced landscaping or decorative driveway features), which, in the opinion of the ACC, will lessen the negative aesthetic impact of the wider drive.*

4. **Roof Pitches Facing Public Streets.** The provisions in the Declaration pertaining to roof pitches facing public streets shall only apply to gables at the front of the house and facing a public street.
5. **Storm Water Management Area Rules and Regulations.** Pursuant to the Declaration, the Association for the Subdivision has adopted rules and regulations concerning the use of the Storm Water Management Area (the "Storm Water Management Area Rules and Regulations"), a current copy of which is attached hereto as Exhibit B for reference.
6. **Force and Effect.** All other provisions of the Declaration remain unchanged and in full force and effect.

IN WITNESS WHEREOF, this Third Amendment to Declaration has been executed as of this 31st day of July, 2006.

FOX LAKE VILLAGE DEVELOPMENT, INC.

By:

Greg Walsh
Greg Walsh, President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
WAUKESHA COUNTY)

Personally came before me this 31st day of July, 2006, the above named Greg Walsh to me known to be the person who executed the foregoing instrument and acknowledged same.



By:

Craig A. Caliendo

Craig A. Caliendo
Notary Public, Wisconsin

My Commission expires is permanent.

000106 OCT 17 08

CONSENT OF MORTGAGE HOLDER

The undersigned, M&I Lake Country Bank ("the Bank"), being the holder of a mortgage (the "Mortgage") on the real estate being subjected to the terms, covenants and restrictions of the Declaration (as defined above), hereby consents to the terms and provisions of this First Amendment to Declaration and agrees that the rights and interest of the Bank under the Mortgage shall be subject to the terms, covenants and conditions of the Declaration, as herein amended.

M&I LAKE COUNTRY BANK

Dated: 10/6/06

By: [Signature]

Name: SCOTT A. KRAEMER

Title: PRESIDENT

STATE OF WISCONSIN)

Waushara COUNTY)

Personally came before me this 6 day of October, 2006, the above named Scott Kraemer, to me known to be the person(s) who executed the foregoing instrument and acknowledge the same.



Brenda Nickols
Notary Public
Waushara County, WI
My commission: 05/30/2010

000107 OCT-17 8

CONSENT OF MORTGAGE HOLDER

The undersigned, BCW Investment Holdings, LLC ("the Bank"), being the holder of a mortgage (the "Mortgage") on the real estate being subjected to the terms, covenants and restrictions of the Declaration (as defined above), hereby consents to the terms and provisions of this First Amendment to Declaration and agrees that the rights and interest of the Bank under the Mortgage shall be subject to the terms, covenants and conditions of the Declaration, as herein amended.

Dated: 7/31/06

BCW Investment Holdings, LLC

By: Greg Walsh

Name: Greg Walsh

Title: President

STATE OF WISCONSIN)

Waukesha COUNTY)

Personally came before me this 31st day of July, 2006, the above named Greg Walsh, to me known to be the person(s) who executed the foregoing instrument and acknowledge the same.

[SEAL]



Craig A. Calendo
Notary Public, Waukesha County, WI

My commission: is permanent

000108 OCT 17 88

EXHIBIT A

LEGAL DESCRIPTION OF THE FOX LAKE VILLAGE SUBDIVISION:

FOX LAKE VILLAGE, BEING A RESUBDIVISION OF LOT 1A & LOT 3 OF C.S.M. 6776 AND OTHER LANDS, ALL BEING PART OF THE NW, NE, SW & SE 1/4's OF THE NE 1/4 OF SEC. 29 AND PART OF THE SW 1/4 & NW 1/4 OF THE NW 1/4 OF SEC. 28 T6N, R19E, CITY OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN, EXCEPTING THEREFROM OUTLOT ONE (1) IN BLOCK "G".

000109 OCT 17 2

EXHIBIT B

STORM WATER MANAGEMENT AREA RULES AND REGULATIONS
FOR
FOX LAKE VILLAGE SUBDIVISION

Pursuant to the Declaration of Restrictions for Fox Lake Village Subdivision, as amended ("Declaration"), the Fox Lake Village Homeowners Association, Inc. ("Association") adopts the following rules and regulations concerning the use of the Storm Water Management Area (as defined in the First Amendment to the Declaration).

These rules and regulations shall be binding and effective as of July 20, 2006 and shall remain in effect until modified or amended by the Association.

1. No boats, rafts, canoes, paddle boats or other floatation devices shall be used within the Storm Water Management Area.
2. No swimming by humans or pets shall be allowed in the Storm Water Management Area.
3. No motorized remote control boats shall be allowed to be used within the Storm Water Management Area.
4. No structures, including but not limited to, piers, docks or sheds, shall be constructed on or adjacent to the Storm Water Management Area.
5. Hiking or walking within the Storm Water Management Area or on the weirs is prohibited.
6. Special vegetation has been planted by the Developer within the Storm Water Management Area (the "Vegetation") to provide stability to the banks of the storm water detention areas. Each lot owner abutting the Storm Water Management Area shall be prohibited from cutting, mowing, removing, damaging or molesting the Vegetation. This restriction shall include the prohibition of the use of lawn chemicals that kill or injure the Vegetation.
7. During the course of construction of a home on a lot abutting the Storm Water Management Area, each owner shall be responsible for making sure their contractor takes steps to prevent damage to the Vegetation or Storm Water Management Area, including, but not limited to, preventing vehicles and equipment from encroaching into this area, keeping the appropriate sill fencing and hay bales in place and in good condition and repair, and not allowing construction debris (i.e. shingles, boards, foam, wire, paint etc.) to enter the Storm Water Management Area.
8. Every owner of a lot abutting the Storm Water Management Area shall be required to comply with the terms, covenants and conditions applicable to an individual lot owner which is set forth in the Storm Water Management Practice Maintenance Agreement for Fox Lake Village Subdivision, dated January 27, 2006 and recorded at the office of the register of deeds for Waukesha County, Wisconsin on January 30, 2006 as Document No. 3357869.

Adopted as of July 20, 2006.

Fox Lake Village Homeowners Association, Inc.

Page 1 of 5
THIRD AMENDMENT TO
DECLARATION OF RESTRICTIONS
FOR FOX LAKE VILLAGE
SUBDIVISION

Document Number

3872234

REGISTER OF DEEDS
WAUKESHA COUNTY, WI
RECORDED ON

November 16, 2011 02:55 PM
James R Behrend
Register of Deeds

5 PGS
TOTAL FEE: \$30.00
TRANS FEE: \$0.00
Book Page -



Recording Area

Name and Return Address

WALSH DEVELOPMENT GROUP
14200 WOODLAWN CIRCLE
ELM GROVE, WI 53122

Parcel Identification Number (PIN)

pd
30
5

THIS PAGE IS PART OF THIS LEGAL DOCUMENT - DO NOT REMOVE

This information must be completed by submitter: Document Title, name and return address, and PIN, (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document.
WRDA Rev. 12/22/2010

**THIRD AMENDMENT TO DECLARATION OF RESTRICTIONS FOR FOX LAKE
VILLAGE SUBDIVISION**

WHEREAS, the undersigned, FOX LAKE VILLAGE DEVELOPMENT, INC., a Wisconsin corporation ("Developer"), is the developer of the Fox Lake Village Subdivision described on Exhibit A attached hereto and incorporated herein by this reference (the "Subdivision"); and

WHEREAS, Developer has executed and recorded at the Office of the Register of Deeds for Waukesha County, Wisconsin, a Declaration of Restrictions for Fox Lake Village Subdivision, dated January 27, 2006 and recorded on January 30, 2006, as Document No. 3357870, as amended by the First Amendment to the Declaration and the Second Amendment to the Declaration (collectively the "Declaration"); and

WHEREAS, the Developer is currently the fee owner of several lots the Subdivision and pursuant to Section 25 of the Declaration retains the right to amend and modify same.

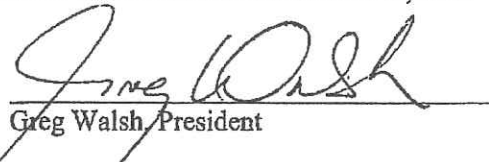
NOW THEREFORE, the Declaration is hereby amended as follows (Any defined terms used in this Amendment which are not specifically defined herein shall be ascribed the defined meaning set forth in the Declaration.):

1. **Allowance of In-ground Swimming Pools.** Notwithstanding anything contained in the Declaration to the contrary, in-ground swimming pools shall be allowed on the following lots in the Subdivision: Lots 18, 19, 21, 22 and 35 all in Block "D" of the Fox Lake Village Subdivision, in the City of Waukesha, Waukesha County, Wisconsin. Detailed plans for any swimming pool to be constructed in the Subdivision must be submitted to ACC and receive written approval from the ACC before any construction is commenced. Said plans must demonstrate that the bottom of the pool will be at least two feet (2') above the normal high water mark of the lake system adjacent to the subject lot and that sufficient subsoil investigation has been performed to confirm the subsoil of the area upon which the pool is to be constructed will accommodate and support the pool and all related improvements.
2. **Force and Affect.** All other provisions of the Declaration remain unchanged and in full force and effect.

IN WITNESS WHEREOF, this Third Amendment to Declaration has been executed as of this 15th day of November, 2011.

FOX LAKE VILLAGE DEVELOPMENT, INC.

By:


Greg Walsh, President

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) ss.
WAUKESHA COUNTY)

Personally came before me this 15th day of November, 2011, the above named Greg Walsh to me known to be the person who executed the foregoing instrument and acknowledged same.



By: Karyn Gliniecki
Karyn Gliniecki
Notary Public, Wisconsin
My Commission expires: 1/26/2014

CONSENT OF MORTGAGE HOLDER

The undersigned, BCW Investment Holdings, LLC ("the Bank"), being the holder of a mortgage (the "Mortgage") on the real estate being subjected to the terms, covenants and restrictions of the Declaration (as defined above), hereby consents to the terms and provisions of this First Amendment to Declaration and agrees that the rights and interest of the Bank under the Mortgage shall be subject to the terms, covenants and conditions of the Declaration, as herein amended.

BCW Investment Holdings, LLC

Dated: 11/15/2011

By:

Name:

Title:

Greg Walsh
Greg Walsh
Managing Member

STATE OF WISCONSIN)
)
Waukesha COUNTY)

Personally came before me this 15th ^{November, 2011} ~~day of July, 2006~~, the above named Greg Walsh, to me known to be the person(s) who executed the foregoing instrument and acknowledge the same.

[SEAL]



Karyn Gliniewicz
Notary Public
Waukesha County, WI
My commission: 1/26/2014

EXHIBIT A

LEGAL DESCRIPTION OF THE FOX LAKE VILLAGE SUBDIVISION:

FOX LAKE VILLAGE, BEING A RESUBDIVISION OF LOT 1A & LOT 3 OF C.S.M. 6776 AND OTHER LANDS, ALL BEING PART OF THE NW, NE, SW & SE 1/4's OF THE NE 1/4 OF SEC. 29 AND PART OF THE SW 1/4 & NW 1/4 OF THE NW 1/4 OF SEC. 28 T6N, R19E, CITY OF WAUKESHA, WAUKESHA COUNTY, WISCONSIN, EXCEPTING THEREFROM OUTLOT ONE (1) IN BLOCK "G".