DECLARATION OF RESTRICTIONS
FOR WEST POINTE ESTATES SUBDIVISION

This Declaration is made this first day of April 2001, by North Star Homes L.L.C. (Hereinafter referred to as the "Developer") and updated by the ACC as of February 1, 2020.

RECITATIONS

WHEREAS, The Developer owns all those lands located in the Town of Mukwonago, Waukesha County, Wisconsin, described on Exhibit *"N",* attached hereto and incorporated herein by reference, which said lands are otherwise to be known as the West Pointe Estates Subdivision ("Subdivision"); and

WHEREAS, the land described in Exhibit "X' is a platted subdivision consisting of 13 lots platted by the Developer; and

WHEREAS, the Developer desires to subject the lots in the Subdivision to the conditions, restrictions, covenants, reservations and easements contained herein for the benefit of said property and for the benefit of each owner of any part thereof.

DECLARATION

NOW, THEREFORE, the Developer hereby declares that the real property described herein in Exhibit *"N'* and all portions thereof shall be used, held, transferred, sold, and conveyed. Used and improved only subject to the conditions, restrictions, covenants, reservations and easements in this Declaration which shall inure to the benefit of and shall pass with each Lot as covenants running with the land and shall apply to and bind all successors in interest, users and owners thereof.

SECTION 1. GENERAL PURPOSE.

1.01 General Purpose. The purpose of this Declaration is to ensure the best use, the most appropriate development improvement of each Lot thereof; to protect Owners of Lots against such use of surrounding Lots as will detract from the residential value of their property; to preserve, as far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or poorly proportioned structures; to obtain harmonious use of material and color schemes; to ensure the highest and best residential development of said property; to encourage and secure the erection of attractive homes thereon with appropriate locations thereof on Lots to prevent haphazard and inharmonious improvement of building sites; to secure and maintain proper setbacks from street and adequate free spaces between structures and in general to provide . adequately for a high type and quality of improvements on said property, and thereby to preserve and enhance the values of investments made by purchasers of building sites therein.

SECTION 2. DEFINITIONS

2.01 Definitions

A "Architectural Control Committee" shall mean the Board of the Association appointed or elected in accordance with this Declaration who shall serve as members of the Architectural Control Committee (hereinafter sometimes referred to as the "ACC").

B. "Association" shall mean the West Pointe Estates Homeowners Association, Inc., an incorporated, non-stock, non-profit association created pursuant to this Declaration and pursuant to the laws of the State of Wisconsin.

C. "Board" shall mean the Board of Directors for the Association.

D. "Board Member" shall mean a member of the Board of Directors for the Association.

E. "Open Space Common Area" or "Open Space Common Areas" shall be synonymous and shall mean Outlets 1, 2, 3, 4, 5 as shown on the Subdivision Plat.

F. "County" shall mean Waukesha County, a municipal corporation, organized under the laws of the State of Wisconsin.

G. "Developer" shall mean collectively North Star Homes L.L.C., organized under the laws of the State of Wisconsin, as well as any Successor-Developer.

H. "Family" shall mean one or more persons related by blood, marriage or adoption who are living, sleeping, cooking and eating on the premises as a single housekeeping unit and shall exclude any person or group of persons where three or more are not so related or engaged as household employees.

I. "House", whether singular or plural, shall mean a permitted single Family residential structure.

J. "Lot" shall mean a platted lot within the Subdivision identifiable by reference to a lot number. The term "Lot" does not include any outlet or other common area.

K. "Lot Owner", "Owner" and "Owner of Lot" shall be synonymous and shall mean the holder(s) of a legal or equitable ownership interest in fee simple to a Lot, regardless of the type of tenancy or estate and shall include land contract

vendees and vendors, but shall not include the holder of any leasehold interest or any mortgage or other pledge or security interest in a Lot or other lien.

L. "Outlot" shall mean Outlets 1, 2, 3, 4, 5 and shall be synonymous with "Open Space Common Area" or "Open Space Common Areas".

M. "Structure" and "Improvement1' shall be synonymous and shall both mean and include any and all of the following, regardless of whether temporary or permanent in character or intended used: building, out building, shed, booth, garage, car port or above-ground storage facility; tent, exterior lighting or electric fixture, antennae, tower, pole or bug control device; fence, retaining or other wall, fountain or above-ground or in-ground swimming or wading pool; planting; driveway, sidewalk or walkway; pet kennels or run lines; screened or other type of porch, patio or gazebo; tree house or other exterior play equipment; berms and swales, and any other type of equipment or facility for any decorative, recreational or functional purpose of any kind (including, without limitation, additions or alterations or deletions from any of the foregoing) not located and installed entirely below ground level, unless located entirely within the exterior perimeter walls of the single-family building constructed on the Lot. Use of the phrase "structure or improvement" or any other use of such words shall not imply different meanings for such terms.

N. "Subdivision" shall mean the lands described on the attached Exhibit "A", but excluding lands now or hereafter dedicated to the Town.

0. "Subdivision Plat" shall mean the West Pointe Estates Subdivision Plat as recorded in the office of the Waukesha County Register of Deeds.

P. "Successor-Developer" shall mean any person, firm or entity which expressly assumes, in writing, all of the remaining obligations of Developer to the Town under any existing development agreements relating to the Subdivision or portions thereof.

Q. "Town" shall mean the Town of Mukwonago, a municipal corporation, organized under the laws of the State of Wisconsin.

SECTION 3. USE RESTRICTIONS.

3.01

A Each Lot shall be used solely for residential purposes by one Family. The term "residential purposes" shall include only those activities necessary for or normally associated with the use and enjoyment of a homesite as a place of residence and limited recreation.

B. Minimum lot size shall be one and one-half (1-1/2) acre in size.

C. Minimum offset for side yards shall be thirty (30) feet.

D. The minimum setback from any and all right-of-ways shall be fifty (50) feet for all residential structures.

E. The setback of any and all structures shall be a minimum of seventy-five (75) feet from all conservancy, wetland and floodplain areas.

F. The minimum average width for all lots within this development shall be no less than two hundred (200) feet.

G. The floor area ratio shall be a maximum of ten percent (10%) of each lot.

H. A minimum of open space per lot is 1.25 acres.

I All lots in the subdivision, although zoned A-1 Agricultural District, are subject to all rules and requirements of the S-E Suburban Estate District unless further restricted or otherwise specifically regulated by these restrictions, the Town of Mukwonago order granting a Conditional Use Permit and prescribing conditions to construct a planned unit development on the Bartz Property, or other action of the Town.

J. Only one Home may be constructed on each Lot and no garage, tent or other improvements (except for the Home) shall be used for temporary or permanent living or sleeping for the Family or guests.

K. Each Lot and each Home shall be maintained by the Lot Owner so as to be neat in appearance when viewed from any street or other Lat and, if not properly maintained, the Association may perform yard maintenance to the Lot and charge the costs thereof to the Lot Owner and levy a Special Assessment against the Lot as provided elsewhere herein. Developer shall not be obligated ta improve any areas of the Subdivision or Lots with grass and plantings or to cut grass or foliage growing in a natural environment.

L. No Lot shall be used in whole or in part for conducting any unlawful activity or for any unlawful purpose.

M. No soil shall be removed from any Lot in the Subdivision without the prior consent of the ACC. Any excess soil resulting from excavations during construction shall be immediately transported, at the buyer's expense, to an appropriate dumping site.

N. In order to facilitate the development of the Subdivision, Lots may be used by the Developer and/or the Association to construct model homes or homes built

on speculation by the developer. Once all 13 Lots have been sold by the Developer, the use of model homes shall be thereafter prohibited.

0. Recreational Vehicles shall not be parked, kept or stored on any Open Space Common Area or undeveloped area of the Subdivision, nor shall any such Recreational Vehicle be parked, kept or stored on any Lot outside an enclosed garage, without the prior approval of the ACC (which may be withheld for any reason including, but not limited to, aesthetics). Furthermore Recreational Vehicles shall not be used or operated on any Lot, Open Space Common Area, or otherwise within the Subdivision except on dedicated streets in accordance with applicable traffic laws.

P. No animals, horses, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except dogs and cats, limited to a combined total of two (2), and other such household pets provided that they are not kept, bred or maintained for a commercial purpose.

Q. No Lot shall be used in whole or in part for the storage of rubbish of any character whatsoever or for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition, including, but not limited to (except during construction) trucks, commercial vehicles (as defined by the Wisconsin Department of Transportation), motorcycles, boats, snowmobiles, ATV's and mobile homes or trailers or any other property that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any Lot that will emit foul or obnoxious odor; or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding property or any other Lot.

3.02 No signs or banner of any kind shall be placed or displayed to public view on any Lot except one (1) sign of not more than four (4) square feet advertising the property for sale. No signs can be placed at the entryway of the subdivision advertising a Lot for sale.

3.03 No exterior solar collectors or similar devices shall be erected, installed or used without the written permission of the ACC.

3.04 All refuse and garbage receptacles shall be stored in the Home or garage except for twelve (12) hours before and twelve (12) hours after the scheduled garbage pickup.

3.05 The Association will be responsible for maintaining all plantings within boulevard entrances to the subdivision. The Association shall assess lot owners equally for this maintenance expense.

SECTION 4. CONSTRUCTION OF IMPROVEMENTS

4.01 No Home or other structure or improvement of any kind shall be installed, erected, constructed, placed or moved on to any Lot (or altered or changed with respect to layout, location or exterior design, appearance, color or material composition) without:

A. Prior submission of detailed plans to the ACC and such other additional material as the ACC requests in order to conduct its review and approval; and

B. Acquisition of prior written approval by the ACC. Plans submitted for consideration and review by the ACC shall include, without limitation, and in addition to any additional materials, plans or drawings requested by the ACC. The following:

1. Construction drawings, plans and specifications (prepared by a qualified home designer or architect if the improvement involves construction of a Home or addition or change) showing dimensions, composition and color of exterior materials and equipment, if any; and

2. Plot plan showing the location of the improvement with respect to setbacks from Lot lines and other buildings and improvements, finish grade elevations, topography and other data pertinent to such review by the ACC as it may reasonably requested.

C. The ACC shall consider the acceptability of the following improvement or construction features, without limitation, in its sole judgment, when considering a submission under this section:

1. Material composition and quality;
2. Exterior design, appearance and color;
3. Coordination with outer existing or contemplated surroundings, setbacks, finished grade elevations, drainage and plantings and general aesthetics;
4. Location and orientation on a Lot.

D. Building permits to be issued by Town of Mukwonago Building Inspector. Lots 2, 3 and 4 must receive a Zoning Permit from Waukesha County and an Erosion Control Permit issued by the Town Building Inspector, due to the fact that these lots are within the Waukesha County Shoreland and Floodland Protection Jurisdictional Limits.

4.02 Upon receipt of prior written approval by the ACC of the submitted plans for the proposed improvement and upon receipt of any necessary Town and other governmental approvals or permits, construction or installation of the improvement may commence and, once commenced, shall be completed as to all exterior items within twelve months following either acquisition of ACC approval or issuance of any required building permit

by the Town, whichever is earlier. The ACC may, in its discretion, extend such completion deadline up to an additional six months in the event it finds the delay has been caused primarily by factors beyond the control of the Lot Owner and his/her contractors

4.03 To. the event the ACC fails to act upon submitted plans within *45* days following written acknowledgment by the ACC that it has received such plans and that they are adequate for purposes of its review or in the event no suit to enjoin the erection, installation or change of the improvement or to require removal thereof has been commenced within one year following final completion thereof, no right shall exist to thereafter enforce these restrictions insofar as approval by the ACC is required as to such particular matter.

4.04 In order for any approval or permission of the ACC under this Section to be binding or effective, it must be in writing and signed by the Developer. No oral statements, representations or approvals shall be binding on the ACC under any circumstances, regardless of any reliance thereupon by any Lot Owner.

SECTION 5. MINIMUM LIV1NG AREA AND OTHER REQUIREMENTS

5.01 Houses built on lots 1 through 13 shall have a minimum living area (exclusive of basement, exposed basement, attic, garage, porches, patios, decks and storage areas) of not less than 2,400 square feet for a two-story home and not less than 2,000 square feet for a one-story home.

5.02 The ACC shall have the exclusive right to determine whether the requirements set forth in this Section 5 have been met and any decision of the ACC shall be final and conclusive.

5.03 All Houses shall include an attached garage containing a minimum of six hundred (600) square feet. Garage doors are to be located and constructed so as to avoid a front or street exposure orientation.

5.04 The exterior of all :fireplaces shall be of masonry, stucco, or stone construction. The exterior of all structures shall be constructed of wood, brick, stone, stucco or a combination thereof: except that trim around doors or windows may be metal or vinyl subject to approval in writing by the ACC. In no event shall the exterior of any structure consist of metal or vinyl siding. All roofs shall consist of natural shake, dimensional asphalt shingles, tile or slate. Notwithstanding anything to the contrary contained in the paragraph, comparable or superior construction materials may be substituted if said substituted materials are approved in writing by the ACC.

5.05 Twenty-five percent (25%) or more of the front elevation must be masonry.

5.06 On Lot 2 and Lot 5, if shutters are used for windows on the front of the home, they shall also be used on appropriate windows on the sides and rear of the home. Similarly, window casings and trim features on the front of the home shall be used consistently on the sides and rear of the home.

5.06 On Lots 1, 3, 4, 6 through 13, window casings and trim features on the front of the home shall be consistent with the sides of the home.

5.07 Any exposed basement or foundation walls shall be covered with masonry veneer, plaster or of siding identical to that siding used on the House.

5.08 No modular style Houses or pre-manufactured Houses shall be permitted in the Subdivision.

5.09 Outdoor lighting shall be incandescent or of low-pressure sodium, and light fixtures shall be shielded or directed downward so as to eliminate skyward, and minimize horizontal illumination, or unnecessary illumination on neighboring Houses. Each Lot owner must purchase a designated electric lamp and post and mail box from Developer. Owner is responsible for installing lamppost. Developer is responsible for initial installation of mailbox.

5.10 Swimming pools are only allowed in compliance within applicable setback and offset requirements of the lot that apply to principal structures in S-E suburban Estate District, and must be approved in writing by the ACC. Only in-ground type pools shall be permitted. Pools must be screened or separated from direct view of the street, other Lots and neighboring properties. Swimming pools cannot be placed within any drainage easements as depicted on the Final Plat. If physically detached from the residence, the pool should be visually blended into the landscape. All pool-related pump and filter equipment must be concealed to minimize noise nuisance. All pools must be constructed and kept operable in accordance with Town, County and State of Wisconsin rules and regulations. Upon abandonment, or should the pool become a nuisance, the Owner shall demolish the same and, insofar as is practicable, restore the land to a condition approximating that which existed prior to the construction of the pool., and will thereafter properly landscape and maintain said restored land. The method of demolishing the pool shall be subject to approval by the ACC.

5.11 Prior to installation of air conditioning, ventilation or other mechanical systems. that may generate noise, the Owner shall obtain the prior written approval of the ACC as to the location and type of systems. Said systems shall be screened from view. No window or roof top units will be allowed.

5.12 One doghouse per lot may be permitted by the ACC, subject to prior review and approval of submitted plans as to

location, appearance and construction. No dog fences or fenced dog "runs" are permitted.

5.13 Each Lot shall be improved by the Lot Owner with an approved hard surface driveway extending from the street to the garage within 12 months following issuance of an occupancy permit for the Home by the Town. Hard surfaces include, but are not limited to, asphalt, cement, and brick pavers. A plot plan showing the location of the drive shall be submitted to the ACC for its prior written approval. If the driveway is installed as a concrete driveway, the concrete shall be installed no closer than six (6) feet to the traveled portion of the roadway, and the area between the concrete driveway and the traveled portion of the roadway shall be paved with asphalt. Further, driveway pavement installed within the (10) feet from the traveled portion of the roadway shall have a rise of not more than five (5) inches.

5.14 Any open culvert shall be finished with natural stone, masonry, or asphalt. The location, positioning and finishing of all culverts shall be approved in writing in advance by the ACC and by the Town.

5.15 All utility lines and wiring for gas, electric, telephone and cable television service to a House, garage or other improvement shall be installed underground, unless otherwise permitted in writing by the ACC prior to installation

5.16 No exterior antennae (other than a dish-type antennae not exceeding twenty- four (24) inches in diameter) shall be permitted without the prior written approval of the ACC, which permission may be denied in the sole discretion of the ACC. In reviewing a request for an exterior antennae, the Committee shall take into account the location and visibility of the antennae and whether it may be seen by adjacent lot owners or persons moving in any public street or Open Space Common Area. In no event shall any dish-type antennae in excess of twenty-four (24) inches in diameter be allowed anywhere in the Subdivision. In no case shall more than one dish-type antennae of any size be located on any Lot.

5.17 No Owner of any Lot shall or will at any time alter the grade of any lot from that which is naturally occurring on that lot at the time the site development improvements have been completed by the Developer unless and until the lot owner shall first obtain the written approval of the Town Engineer and ACC for such grade alteration. In order to obtain this approval, it shall first be necessary for the Lot Owner, at the Lot Owner's 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, states that the effects on site drainage will not be in violation of law as to alteration of natural drainage courses, and is a plan which does not unreasonably affect an adjacent property owner as regards to drainage or their viewing of unreasonable slope treatment. This plan must be approved by the ACC and the Town Engineer. If approval is granted, this shall not relieve the lot owner from the ultimate responsibility for the design, performance, and function of the grade alteration and/or drainage condition, and the Lot Owner

by requesting the alteration, and/or by altering the grade, thereby agrees to indemnify and hold harmless the Town and its agents, employees and independent contractors regarding the same. The Developer and /or Town 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 property owner is responsible for cost of the **same.**

5.18 No building or construction materials shall be stored on any Lot outside of the House, other than during periods of actual construction or remodeling and then only for so long as may be necessary. Excess excavated material shall not be stored on any Lot during or after construction without the prior written approval of the ACC, unless required for back filling, finish grading or landscaping. During any earth moving activities, erosion control practices shall be maintained. Each Lot Owner shall comply with the soil and erosion control plan ordinances of the Town and County.

5.19 Each Lot Owner shall include the following provisions in all construction contracts:

A The roadway abutting the Lot shall be cleaned at least once a day of mud and debris during the construction period.

B. There shall be no loud music at the construction site during the period of construction.

C. A dumpster shall be provided at the building site for the period of construction for debris.

D. All burning of debris must comply with municipal burning ordinances and regulations.

E. Toxic, or potentially toxic materials shall not be buried on site.

F. There shall be no more than one sign on any Lot during the period of construction; said sign shall not exceed six (6) square feet in area, and shall have one side of signage only.

G. No sign of any contractor shall be placed at the entry way to the Subdivision or on any other Lot or Open Space Common Area other than the Lot on which the contractor is working.

H. The contractor shall comply with the soil and erosion control plan ordinances of the Town and County.

If the Lot Owner does not include the provisions set forth in this section 5.19 in the contract with the contractor or if the lot Owner does not enforce these provisions, the ACC may take the necessary action to enforce this section 5.19 at the Lot Owner's expense.

5.20

An outbuilding per lot may be permitted by the ACC, subject to prior review and approval of submitted plans as to location, appearance, and construction. The Outbuilding must adhere to the following guidelines:

1. Structure shall not exceed 1,100 square feet and shall be measured from outsides of wall framing.
2. Structure to be one of the following: a post frame build (post in ground first, then in concrete), a thickened edge slab build (build on the thickened edge floating slab), or footing type traditional build (poured or block footings with slab on and in between footings).
3. Exterior siding to be horizontally installed and shall be the same on the house as it was built and already approved by the ACC.
4. Roof can either consist of natural shake, dimensional asphalt shingles, tile, slate, or metal to match the existing structure. Metal shingles provided they match in color and/or texture are allowed. The roof must have some degree of pitch to it and not flat.
5. Hard surface drives, walks, etc. will be allowed to structure. Concrete, asphalt, or brick will be allowed. In the event no hard surface is put down and grass areas become rutted or bare dirt, homeowner must put an acceptable hard surface in place upon correspondence from ACC. No gravel only surfaces shall be allowed.
6. Overhead doors to match structure will be allowed and may face the street.
7. Electricity or gas lines will be allowed to be extended to structure
8. The open area surrounding the structure must be grass. No storage of property outside the structure.
9. Structure shall contain a minimum of two windows to match the style of the house.
10. No part of the structure should be in front of the front part of the house.
11. No pre-manufactured garden sheds shall be allowed (i.e. a shed purchased from Menards, Home Depot, Lowes, etc.).
12. Outdoor lighting shall be LED and shall be shielded or directed downward to eliminate skyward and minimize unnecessary illumination on neighboring houses.
13. Construction, along with landscaping, shall be completed within the time frame granted by the Town of Mukwonago through the issuance of a building permit.
14. Prior to obtaining permits and in order to receive ACC approval, the lot owner must make a payment directly to the initial lot owners who funded the initial costs to the Town of Mukwonago and the County of Waukesha to share in their portion of the costs to change the conditional use permit to allow outbuildings to begin with. Attached is a listing of the homeowner lot numbers that have made the necessary payments. This list will be updated every time a lot owner makes the necessary payment. To the extent any lot owner sells their property they shall disclose to the buyer whether the necessary payment has been made. Any lot owner may voluntarily remit their share of initial costs at any time and the listing will be updated to reflect the payment. Under no circumstances will ACC approval be given to a lot owner, current or future, if the required payment has not been made for the specific lot.
15. Prior to obtaining necessary permits from the municipality, the homeowner shall submit the following items to the ACC for approval:
    a. Two (2) sets of building plans including all elevations and construction details showing the above-mentioned items in minimum $1/8^{th}$ inch = 1’-0” scale.
    b. Two (2) sets of surveys shown location of proposed structure with dimensions in relation to lot line and other structures to the extent required by the Town of Mukwonago or Waukesha County.
    c. The ACC will have final approval of proposed structure for compliance.

SECTION 6. LANDSCAPING AND DRAINAGE

6.01 Within six (6) months following issuance of an occupancy permit for a house, complete landscape plan to include a minimum of four (two inch) trees and seeding or sodding, for the entire Lot shall be submitted to the ACC for its prior written approval. All landscaping shall be completed (in accordance with the plan approved by the ACC) within twelve (12) months of commencement of construction for the house.

6.02 To avoid a substantial increase in surface water drainage onto adjoining Lots, the landscaping plan shall provide for adequate drainage of storm and surface water away from adjoining Lots if natural drainage on the Lot is to be or has been altered by grading or landscaping by the Lot Owner.

6.03 No lot line fence, wall hedge or screen planting shall be installed unless in accordance with landscaping or other plans approved in advance by the ACC.

6.04 The Lot Owner shall maintain the right of way pursuant to the drainage plan and in accordance with the directives of the ACC.

SECTION 7. MAINTENANCE OF EASEMENTS.

7.01 The Owners of all Lots upon which easements are located according to the Subdivision Plat or imposed on a Lot by the Developer prior to sale of the Lot by Developer are responsible for maintaining the easement for its intended purpose.

7.02 The maintenance, repair and restoration responsibility of the stormwater facilities located within the drainage easement as shown on the Final Plat must be in conformity with all the Planned Unit Development conditions and Final Development Plan Conditions. In the event that maintenance, repair or restoration of the stormwater facilities located within the drainage easement is not carried out to the satisfaction of the Town, in the Town's sole discretion, the Town is hereby authorized to send written notice to the Association indicating that the Town has determined that the stormwater facilities are not being properly maintained and further indicating the Town of Mukwonago will perform such maintenance if not properly done by the Association.

The above referenced notice shall give the Association a minimum of fourteen (14) days to correct the problem. If the drainage facilities are not properly maintained, repaired or restored within the time granted by the above referenced notice, the Town of Mukwonago shall then have the authority, but not the obligation, to maintain, repair and/or restore any such matter referred to in said notice and have the right to charge the lot owners on a pro rata basis for any costs incurred by the Town as a result of said maintenance, repair or restoration. Said cost shall be assessed as a special charge pursuant to Section 66.0627, Wis. Stats. If such charges are not paid by any lot owner within the period fixed by the Town of Mukwonago, charges shall become a lien upon the lot owner's lot as provided in Section 66.0627, Wis. Stats. And shall be extended upon the tax rolls as a delinquent tax against the lot owners tax as provided in section 66.0627, Wis. Stats.

SECTION 8. OPEN SPACE COMMON AREAS

8.01 Outlets 1, 2, 3, 4, and 5 (hereinafter "Open Space Common Areas") as shown on the Subdivision Plat are hereby established as open space and as common areas for the use and benefit of all the Lot Owners in the Subdivision, and their respective guests and invitees. Each Lot Owner shall have a one thirteenth (1/13) undivided interest in said Open Space Common Areas, and all deeds and other conveyances of any Lot in the Subdivision shall be deemed to include the one-thirteenth (1/13) undivided interest in said Open Space Common Areas, whether or not so specifically stated in any such deed or other co11veyance. The Association to be established as set forth in this Declaration shall be responsible for the management and maintenance of said Open Space Common Areas, and shall be entitled to establish reasonable rules and regulations regarding the use of said Open Space Common Areas, which rules and regulations shall apply equally to all Lot Owners and their respective guests and invitees. Such rules and regulations may be established either by majority vote of the Board, or by majority vote of the Association itself: provided, however, that the Board shall not be entitled to amend, modify, or rescind any rule or regulation established by majority vote of the Association. The Association shall further have the right to grant easements on, over and across said Open Space Common Areas; without having to seek prior' consent of Lot Owners. The Association shall also be responsible for the mainte'm:r1ce of the boulevard entrance islands in the streets, entrance areas of the development and signage for the development, and shall maintain the stormwater facilities in conformity with all planned unit development Conditional Use requirements and final development plan conditions as approved by the Town of Mukwonago Town Board.

8.02 The following activities on the Open Space Common Areas are expressly prohibited unless and until the Association and/or the Board establishes express rules and regulations permitting same, in which event such use shall be subject to the rules and regulations as so enacted:

A Household pets are prohibited from entering or being on any of the Open Space Common Areas unless and until permitted by rules and regulations.

B. No motorized vehicles of any type, including, but not limited to all-terrain type vehicles, snowmobiles, motorcycles, automobiles, trucks or other on-road or off-road type vehicles may be used or ridden on the Open Space Common Areas at any time, unless permitted by the rules and regulations, and/or except as may be used or authorized by the Association for the purpose of maintaining the Open Space Common Areas.

C. No animals, horses, livestock or poultry of any kind shall be raised, bred or kept on any Open Space Common Areas.

8.03 The foregoing provisions of section 8.02 shall not be interpreted so as to require the Association or the Board to enact rules or regulations allowing any of the foregoing

uses at any time. Further, the foregoing provisions shall not be interpreted so as to prohibit the Association or the Board from enacting rules or regulations prohibiting other uses of all or a portion of the Open Space Common Area.

8.04 The Open Space Common Area shall be planted and maintained in a natural state consisting of prairie grasses and trees as determined appropriate to provide proper drainage. Furthermore, said Open Space Common Areas are hereby restricted against any building of any structure whatsoever.

8.05 Any and all easements on, over and/or across the Open Space Common Areas are subject to the prior written approval of the Town Board of the Town.

8.06 In the event that maintenance of the Open Space Common Areas, boulevard areas in the streets of the development and/or signage, and/or entrance areas are not carried out to the satisfaction of the Town, in the Town's sole discretion, the Town is hereby authorized to send written notice to the Association indicating that the Town has determined that the Open Space Common Areas, boulevard areas in the streets of the development, and/or signage and/or entrance areas are not being properly landscaped and/or maintained and further indicating the Town of Mukwonago will perform such landscaping and/or maintenance if not properly done by the Association. The above-referenced notice shall give the Association a minimum of seven (7) days to correct the problem. If the common Areas and/or boulevard areas in the streets of the development and/or sign and/or entrance areas are not properly landscaped and/or maintained within the time granted by the above-referenced notice, the Town of Mukwonago shall then have the authority, but not the obligation, to landscape and/or maintain any such matter referred to in said notice and shall have the right to charge the lot owners on a pro rata basis for any costs incurred by the Town as a result of said landscaping and/or maintenance. Said costs shall be assessed as special charges pursuant to Section 66.0627, Wis. Stats. If such charges are not paid by any lot own r within the period fixed by the Town of Mukwonago, charges shall become a lien upon the lot owner's lot as provided in Section 66. 0627, Wis. Stats., and shall be extended upon the tax rolls as a delinquent tax against the lot owner's lot as provided in Section 66.0627, Wis. Stats.

SECTION 9. HOMEOWNERS ASSOCIATION

9.01 An 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 the Open Space Common Areas, including any signage identifying the Subdivision. Said Association shall be established as follows:

A. The Association shall be established as a non-stock, non-profit corporation pursuant to the laws of the State of Wisconsin. 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 (hereinafter "Board") consisting of three (3) directors, who shall act 'by majority vote of Association members. So. long as any vacant Lot in the Subdivision is owned by the Developer, Developer shall be entitled and shall have the right to appoint all three (3) directors. Said right shall lapse and be of no further meaning or effect at such time as Developer sells all lots to Lot Owners. Board members appointed by the Developer need not be Lot Owners and may include the Developer.

C. Any Board member, other than those Board Members appointed by the Developer, may be removed from office with or without cause at any regular or special meeting of the Association by a majority vote of all Lot Owners. A successor Board member shall thereafter be elected at a meeting called for that purpose.

D. Vacancies in the Board (caused other than by removal under Section 9.0lC above) shall be filled by a majority vote of the Board members then in office. These Board members so elected to fill vacancies (caused other than by removal under Section 9.0lC above) shall serve until the next annual meeting of the Association, at which time a successor Board member shall be elected by the Association.

E. Each Lot in the Subdivision shall be subject to assessment by the Association for a share of the Association's existing or anticipated expenses, which assessments shall constitute a lien on the Lot as provided in 779.70 Wis. Stats., or any amendment thereto, and, except as set forth below with respect to the County and/or the Town, shall be the personal obligation of the Lot Owners, until paid. The Association shall have all rights to act on or enforce said lien as set forth in 779.70 Wis. Stats., or any amendment thereto. Each Lot shall be responsible for an equal share of said expenses. In the event the County become owner 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 with respect to fees or assessments imposed by this Declaration. Further, in the event Waukesha County and/or the Town of Mukwonago becomes the owner(s) of any Lot through a tax delinquency process, neither the County nor the Town shall have any personal obligation for the payment of Association assessments.

F. The Articles and By-Laws of the Association shall contain such additional provisions not inconsistent herewith as Developer may deem appropriate at the time of establishment of the Association.

G. Said Association shall continue as a non-profit corporation in good standing with the Secretary of State of the State of Wisconsin for so long as this Declaration is in effect.

SECTION 10. ARCHITECTURAL CONTROL COM1\1ITI'EE

10.01 The Architectural control committee (hereinafter "ACC") shall have three (3) members who shall be appointed or elected as provided herein to serve as President or Secretary or Treasurer. The Board of the Association organized pursuant to the terms of this Declaration then in office shall be the members of the ACC and no other person may be a member of the ACC. Each member of the ACC shall serve and hold office until a successor is elected or appointed to such office as provided herein.

10.02 The ACC shall initially consist of the Board members appointed by the Developer. ACC members, other than those members appointed by the Developer as Board members, must be Lot Owners or co-Owners of a Lot in order to be eligible to serve as a member of the ACC.

10.03 An annual meeting of the ACC shall be held immediately after the annual meeting of the Association. No notice to Association members of the annual meeting of the ACC shall be required.

10.04 Regular meetings of the ACC shall be held at such times and places as the ACC determines by resolution to be appropriate and no notice of regular meetings shall thereafter berequired.

10.05 Special meetings of the ACC may be called by any ACC officer on three 3) days prior notice to each officer, given orally or in writing,

10.06 Before, at or after any meeting of the ACC; any officer may (in writing) waive notice of such meeting and such waiver shall be deemed to be equivalent to the proper and valid giving of notice as required herein.

10.07 For all meetings of the ACC, a quorum necessary to transact business shall consist of at least two (2) members and the act of said two (2) members shall be the act of the ACC. If there is less than a quorum present at any meeting of the ACC, no business shall be transacted.

10.08 Any action of the ACC authorized under this Declaration may be taken upon unanimous consent of all ACC members without a meeting.

SECTION 11. MISCELLANEOUS

11.01 Covenants Run with Land. All terms, conditions and provisions of this Declaration (and as may be amended) shall constitute covenants running with the land.

11.02 Plat Restrictions. All restrictions, limitations, covenants or requirements set forth in the recorded Subdivision Plat for West Pointe Estates L.L.C. not inconsistent herewith, are incorporated herein by reference as if set forth at length herein.

11.03 Enforcement of Declaration.

A The Association (acting only through the Board) shall have the exclusive right to enforce, in the name of the Association, by proceedings at law or in equity, all the terms, conditions, and provisions of this Declaration and any rules and regulations adopted by the Association, except that any Lot Owner may . proceed, at such owner's expense to enforce any such terms, conditions or provisions (other than for collection of assessments against Lot Owners) if the Association Board fails to take such action within sixty (60) days following a written request by such Lot Owner to do so. Any Lot Owner violating any of the terms, conditions or provisions of this Declaration or any rules or regulations adopted by the Association shall pay all costs, expenses and actual attorneys fees incurred by the Association or by a• prosecuting Lot Owner in the successful enforcement thereof. Neither the Association nor the Board shall be subject to any suit or claim by any Lot Owner for the failure of the Association or the Board to take any action requested by such Lot Owner against another Lot Owner.

B. Each remedy set forth in this Declaration and/or in the rules and regulations adopted by the Association shall be in addition to all other rights and remedies available at law or in equity. All such remedies shall be cumulative and the election of one shall not constitute a waiver of any other. Any forbearance or failure of the Association or the Board to exercise any such right or remedy for any violation shall not be a waiver of such right or remedy under any circumstances unless a written waiver is obtained from the Board.

C. Under no circumstances shall any violation of this Declaration or of any rule or regulation adopted by the Association result in any reversion of title to any Lot.

11.04 Amendments to Declaration. This Declaration may be amended, after approval by the Plan Commission for the Town of Mukwonago, Town Board for the Town of Mukwonago, and Town Attorney for the Town of Mukwonago, by recording in the office of the Register of Deeds for Waukesha County, Wisconsin, a document to that effect executed by the Lot Owners of at least seventy five (75%) of all Lots in the Subdivision, with all signatures having been duly notarized. Such amendment shall become effective only upon recording. The consent of the Owner of a Lot shall bind all future mortgage lenders and future Owners to any such amendment to this Declaration. The Town shall have the right to review and approve any amendments.

11.05 Term of Declaration. The Declaration (and any amendments) 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 is recorded. Following the initial 40-year period, this Declaration shall be automatically renewed for a subsequent 40..;.year period, and for subsequent 40-year periods thereafter unless prior to the expiration of a 40-year period, seventy-five (75%) of the Owners of Lots in the Subdivision agree to terminate this Declaration, and written proof thereof in recordable font is submitted to the Town Board for the Town and thereafter approved by the Town Board for the Town, and thereafter recorded in the office of the Register of Deeds for Waukesha County, Wisconsin. If the Town Board does not approve a written effort to terminate this Declaration pursuant to this paragraph, then said termination shall be invalid and ineffective. Said termination shall be valid and effective only upon recording as provided herein.

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

11.07 Interpretation. This Declaration shall be construed and interpreted in favor of restricting the use of each Lot consistent with the purposes hereof and any ambiguity shall be resolved against any Lot Owner who installs any structure or engages in any activity not clearly authorized under this Declaration or approved in writing as provided elsewhere herein.

11.08 Applicable Law. This Declaration shall be construed and enforced in accordance with, and governed by, the laws of and in the courts of the State of Wisconsin. 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 Town of Mukwonago, 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 Town, County, State or federal law or regulation, the more restrictive provisions shall apply.

11.09 Reservation of Right to Grant Easements. The Developer, or the Successor-Developer hereby reserves the right to grant and convey easements to the Town and/or to any public or private utility company, upon, over, through or across those portions of any Lot in the Subdivision or Open Space Common Areas within ten (10) feet of any lot line for purposes of allowing the Town or public or private utility company to furnish gas, electric, water, sewer, cable television or other utility service to any Lot(s) or through any portions of the Subdivision or for purposes of facilitating drainage of storm or surface water within or through the Subdivision. Such easements may be granted by the Developer, in its own name and without consent or approval of any Lot Owner, until such time as Developer has conveyed legal title to all Lots in the Subdivision to persons other than the Developer.

11.10 There shall be no division of any Lot or Outlet in this Subdivision.

11.11 Notice is hereby given that the Outlets in the Subdivision are a part of a planned unit development, and that the density of the planned unit development is contingent upon the perpetual care and maintenance of the Outlets by the Developer and/or the Association. The Outlots must be maintained as parks or open space pursuant to the Zoning *Code* of the Town of Mukwonago.

IN WITNESS WHEREOF, this Declaration is executed by the Developer as of the date first written above.

NORTH STAR HOMES, LLC.

BY: Tom McAL member

Subscribed and Sworn to Before Me

This 25th day of July 2001

Notary Public Darlene J. Klopfer

Waukesha County, WI

My Commission Expires 2-13-05

DARLENE J. KLOPFER NOTARY PUBLIC STATE OF WISCONSIN

00-172.Dev
7/16/01
Rev. 8/1/01

FEBRUARY 1, 2020

THESE DECLARATION OF RESTRICTIONS WERE UPDATED AS OF _____(Date to be inserted after voting period ends) BY A MAJORITY VOTE OF THE 13 CURRENT HOMEOWNERS OF WEST POINTE ESTATES SUBDIVISION. THE FINAL RESULTS ARE AS FOLLOWS:

XX HOMEOWNERS IN FAVOR OF UPDATING DECLARATION OF RESTRICTIONS TO EXPRESSLY ALLOW THE CONSTRUCTION OF OUTBUILDINGS

XX HOMEOWNERS NOT IN FAVOR OF UPDATING DECLARATION OF RESTRICTIONS TO EXPRESSLY ALLOW THE CONSTRUCTION OF OUTBUILDINGS

XX HOMEOWNERS THAT DID NOT CAST A VOTE

RESOLUTION PASSED / FAILED BY A MEASURE OF XX TO XX

CURRENT LISTING OF HOMEOWNERS CONTRIBUTING TOWARDS COSTS OF UPDATING CONDITIONAL USE PERMIT – AS OF JANUARY 20, 2020

Brek Zortman – $1,000
Carl Goede - $1,000
Craig Cookle – $1,000

(Note, this document will be updated once we receive the final invoice from the Town of Mukwonago)

EXHIBIT "A"

LEGAL DESCRIPTION:

BEING A PARCEL OF LAND IN THE NW¼ AND SW¼ OF THE SW¼ OF SECTION 29, TOWN 5 NORTH, RANGE 18 EAST, TOWN OF MUKWONAGO, WAUKESHA COUNTY, WISCONSIN BEING MORE COMPLETELY DESCRIBED AS FOLLOWS: BEGINNING AT THE WEST¼ CORNER OF SAID SECTION 29; THENCE WITH THE NORTH LINE OF SAID SW¼ N88°40'49"E, A DISTANCE OF 658.67' TO A POINT; THENCE S01°36'34"E, A DISTANCE OF 954.31' TO A POINT; THENCE N88°40'25"E, A DISTANCE OF 654.89' TO A POINT; THENCE S01°23'47"E, A DISTANCE OF 954.26' TO A POINT ON THE CENTERLINE OF C.T.H. "LO"; THENCE WITH SAID CENTERLINE N88°42'30"W, A DISTANCE OF 1303.81' TO A POINT; THENCE LEAVING SAID CENTERLINE N01°51'11"W, A DISTANCE OF 1849.15' TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 42.1 ACRES MORE OR LESS.