# Weyerhaven, LLC.

# Homeowners Association Documents

Menomonee Falls, WI

# DECLARATION OF PROTECTIVE COVENANTS OF WEYERHAVEN SUBDIVISION

4114580
REGISTER OF DEEDS
WAUKESHA COUNTY, WI
RECORDED ON
December 11, 2014 12:47 PM
James R Behrend
Register of Deeds
29 PGS
TOTAL FEE:$30.00
TRANS FEE:$0.00
Book Page -

This Declaration of Protective Covenants of Weyerhaven Subdivision (this "Declaration") is made and entered into by Weyerhaven, LLC, a Wisconsin limited liability company ("Declarant").

## RECITALS

Declarant owns certain real property known as Lots 1-48 and associated Outlots of Weyerhaven, described on the attached Exhibit A, upon which Declarant intends to develop a subdivision for residences and other related improvements.

By this Declaration, Declarant intends to subject such property and improvements to certain easements, rights, restrictions, and obligations with respect to the ownership, use and maintenance of such property and improvements and all components thereof.

Name and Return Address:
Weyerhaven, LLC
c/o Neumann Companies
N27 W24075 Paul Court, Suite 200
Pewaukee, WI 53072
ATTN: Kevin Anderson

PIN: 0730/29

Now, therefore, Declarant, as fee owner of such property, by this Declaration; (1) establishes and imposes certain provisions, restrictions, conditions, easements and uses upon such real property; and (2) specifies that the provisions of this Declaration shall constitute covenants running with the land which shall be binding upon Declarant, its successors and assigns, and all subsequent owners and occupants of all or any part of such real property.

The general purpose of this Declaration is (1) to promote the harmonious development of Weyerhaven subdivision into a residential community of high quality while protecting the natural beauty and quality of the environment; (2) to help insure that Weyerhaven subdivision will become and remain an attractive community; (3) to guard against the erection of poorly designed or proportioned structures; (4) to require harmonious use of materials; (5) to promote the highest and best residential development of Weyerhaven subdivision; and (6) to require the erection of attractive residences in appropriate locations on building sites; and (7) to provide for the expansion of the Weyerhaven subdivision consistent with this Declaration.

## ARTICLE 1. DEFINITIONS

The following terms shall have the assigned definitions:

1.1 Association. The "Association" shall mean Weyerhaven Homeowners Association, Inc., the members of which shall be all Owners of Lots in the Subdivision.

1.2 ACC. The "ACC" shall mean Architectural Control Board as established by the Declarant.

1.3 Association Insurance. "Association Insurance" shall mean all policies of insurance as may be maintained by the Association under this Declaration.

1.4 Board. The "Board" or "Board of Directors" shall be the governing body of the Association, elected according to the Bylaws.

1.5 Building. A "Building" shall be any freestanding structure located in the Subdivision. A "dwelling" or a "residence" is a Building intended for occupancy in accordance with Section 6.1.

1.6 Bylaws. The "Bylaws" shall mean the Bylaws of the Association as adopted by the Board.

1.7 Common Areas. The "Common Areas" shall consist of easements, outlots, Preserve Lot, and those areas identified on that certain Plat of Subdivision as recorded in the Register's Office.

1.8 Common Improvements. The "Common Improvements" consist of all personal property, fixtures, structures, improvements, sign and real estate on the Property generally identifying the Subdivision, including, but not limited to, Storm Water Drainage Systems, Landscaping, Buildings or other improvements made by the Developer or Association in the Common Areas.

1.09 Declarant. The "Declarant" shall mean Weyerhaven, LLC and its successors and assigns of Declarant pursuant to assignment in accordance with Section 15.7 of this Declaration.

1.10 Declaration. "Declaration" shall mean this Declaration as the same may be amended from time to time.

1.11 Director. A "Director" shall mean a member of the Board.

1.12 Drawings. The term "Drawings" is shall mean the documents prepared to depict proposed modifications and/or additions as further defined in Section 2.1(b).

1.13 Easement. An "Easement" shall mean an area on a Lot or in the Subdivision to which has been granted the right of use to an Owner or another party for a limited purpose and shall be identified as shown on the Final Plat. Owner shall not build plant or create any obstruction

on, over, under or through an easement, except as consistent with the express, written grant of easement rights.

1.14 Lot. "Lot" shall mean a platted lot intended for construction of a residence as shown on the Plat. The reference to a Lot by a number shall mean that particular Lot as shown on the Plat.

1.15 Mortgage. "Mortgage" shall mean a recorded first lien mortgage against a Lot or the vendor's interest under a recorded first lien land contract relating to a Lot.

1.16 Mortgagee. "Mortgagee" shall mean the holder of a Mortgage.

1.17 Occupant. "Occupant" shall mean the Owner and any other person residing on a Lot.

1.18 Owner. "Owner" shall mean each fee simple owner of a Lot. The Declarant is an Owner with respect to Lots to which it holds title.

1.19 Pet. A "Pet" is a domestic dog, cat or other customary household pet that is not kept for breeding or commercial purposes. By virtue of this definition, no other animals are permitted to be on the Property as pets of any Occupant.

1.20 Plat. A "Plat", "Plat of Subdivision", or "Final Plat" is the plat of the Property dated the _____ day of _____, 2014 recorded with the Register's Office as Document No. _____.

1.21 Property. The "Property" shall mean the real estate now (or hereafter) subject to this Declaration, as described on Exhibit A (including such real estate an may be added by Declarant pursuant to this Declaration) and all Buildings and other improvements constructed or to be constructed thereon.

1.22 Register's Office. The "Register's Office" shall mean the office of the Register of Deeds for Waukesha County, Wisconsin.

1.23 Rules. The "Rules" shall mean rules established by the Association governing the administration of the Common Areas and Common Improvements.

1.24 Storm Water Facilities. "Storm Water Facilities" are private storm water basins installed in outlots as shown on the Final Plat.

1.25 Storm Water Permit. "Storm Water Permit" shall be the permit as issued by the Village, as shall be assigned to the HOA, for the maintenance and upkeep of the Storm Water Facilities.

1.26 Subdivision. "Subdivision" shall mean all of the Lots as shown on the Plat.

1.27 Village. "Village" shall mean the Village of Menomonee Falls, Wisconsin, and its successors.

1.28 Weyerhaven Documents. "WH Documents" shall consist of this Declaration, Articles of Incorporation of the Association and the Bylaws of the Association.

1.29 Preserve. The "Preserve" shall be the Lot and the improvements thereon, as shown on the Plat, located at the entrance of Weyerhaven Boulevard. The area shall be a Common Area and the improvements shall be Common Improvements maintained by the HOA.

## ARTICLE 2. ARCHITECTURAL CONTROL

2.1 Architectural Controls; Restrictions on Development.

(a) Architectural Control Committee. Composition. Declarant shall establish an Architectural Control Committee ("ACC"), related to the Association as provided herein, consisting of three (3) members who shall have the duties as set forth in this Article. The initial ACC members shall be appointed by Declarant and shall not be required to be Owners. After the earlier of (i) the date by which Declarant conveys to purchasers 100% of the then existing Lots and occupancy has been granted for a residence on each Lot; or (ii) ten (10) years from the date of recording of the Declaration, the initial members of the ACC shall resign and the Board shall elect the three (3) members from the Owners of then existing Lots to serve on the ACC; provided, however, that if selected by the Board, a representative of Declarant may serve on the ACC. Notwithstanding the election of the new members of the ACC, the approval of Drawings (defined below) for the initial construction of a residence on a Lot shall not be effective without the express prior consent of the Declarant; approval of Drawings for other matters will not require Declarant's approval. For purposes of this section, a "bulk" or multi-Lot conveyance to a party who is not intending to occupy the property conveyed shall not be considered a conveyance for purposes of (i) above.

(b) No Development Without Prior Approval. Not less than ten (10) days prior to each time any of the following is proposed to occur:

(1) commencement of construction of any Building or other improvements or alteration on any Lot, or

(2) the reconstruction of any Building or other improvements on any portion or portions of such property following a casualty loss thereto, or

(3) the demolition of any Building or other improvements on any portion or portions of such property, or

(4) the initial painting, or subsequent decoration or alteration of the exterior of any Building or other improvement on such property, or

(5) the installation of items such as, but not limited to, solar panels, awnings, enclosure, hot tub, deck, swimming pool, mailboxes, fences, berms or other features on any such property;

the Owner(s) of such property shall submit to the ACC for consideration as described below three copies of written information, which shall include a survey of such property prepared by a licensed surveyor or the equivalent as approved by the ACC for the particular submission, ("Drawings") showing:

(A) the location, size, elevations and type of Building(s) and other improvements, including, but not limited to, residences, garages and fences or other matters proposed to be erected or reconstructed on such property,

(B) detailed plans and specifications for construction or reconstruction, including building material, type and color, and plans to screen the demolition, construction or reconstruction from view,

(C) the proposed landscaping, including any fences or walls, and

(D) the proposed location and specifications for utilities servicing such improvements.

The Drawings shall reflect the proposals in A through D, which are appropriate to be shown on the survey. Any of the actions described in clauses (1) through (5) above may be taken (subject to subsection (c) following) on or after the date on which the ACC approves or does not object or is deemed to have done so as provided in subsection (c) following, unless such time periods are waived by the ACC in its sole discretion where the ACC believes that such earlier commencement is consistent with the purposes of this Declaration. No action described in paragraphs (1) through (5) above shall take place without the approval by the ACC of the Drawings for such action, except if the action is the repair or replacement of previously approved exterior features with features that are identical or if the action is the repainting of an exterior surface with paint of the same color.

(c) Standards and Procedural Matters of Consideration. The ACC shall not unreasonably refuse to consider submitted Drawings provided that any fees imposed for review have been paid. In considering any Drawings, the ACC shall consider, among other factors, whether all of the improvements and the lighting, exterior finishes (such as materials, decorations, and paint color), landscaping, the placement and protection of trees as provided in Section 2.6(b), and such other matters proposed in such Drawings comply with the terms of this Declaration and the Village ordinances and otherwise are, in the ACC's sole opinion, in keeping with and do not detract from the harmony of the external design of or depreciate any portion of the Property, whether then undeveloped, developed or in the process of development, even if the Drawings otherwise do not breach any other standard set forth in this Declaration. The ACC may approve Drawings (absolutely or conditionally), may object to Drawings (absolutely or conditionally), or may state that it has no objection to Drawings (absolutely or conditionally). Approval must be express and in writing. The failure of the

ACC to approve, object or acquiesce conditionally as above within thirty (30) business days after submittal of the complete Drawings and payment of any review fees shall be deemed as if the ACC stated that it has no objection to the Drawings as submitted. If the ACC objects to Drawings in whole or in part for any reason, the submitting Owner shall thereafter resubmit Drawings to the ACC with such revisions as are required. Each time an Owner so submits the Drawings, the ACC shall have the right to approve, acquiesce conditionally or object to the Drawings as described above in the time periods as measured from the last submittal. Following the ACC's approval of the Drawings, the improvements described therein shall be developed strictly in accordance with the approved Drawings and requirements. If the approved improvements are not completed within one (1) year of their initial approval, then such approval shall be deemed withdrawn and the same or different Drawings required to be submitted or resubmitted, as the case may be; provided that the ACC may, in its discretion, extend such period by up to an additional six (6) months if it reasonably determines that delay has been primarily caused by factors outside of the control of the Owner; and provided further that the initial driveway need not be completed until the time period specified in Section 2.5(n).

(d) Prior Approval for Changes. If after the completion of the improvements to an affected property, the Owner thereof desires to construct any additional improvements or to substantially alter the then existing improvements or the grade of the affected property, the Owner shall comply with the provisions of subsection (b) above. A proposed alteration will be deemed substantial if it affects the location or exterior appearance of the approved improvements.

(e) Procedures and Budget. The ACC may set its own operating procedures consistent with this Declaration and any limitations hereafter imposed by the Board. The costs of operating the ACC shall be assessed by the Association as common expenses, except as permitted below. The ACC may, but need not, require the payment of a review fee in connection with the submittal of any Drawings pursuant to a written policy. The ACC may engage consultants (e.g. architects, engineers or attorneys) either on a general or on a case-by-case basis, and the costs thereof may be charged to an applicant. The members of the ACC shall not draw any compensation for serving thereon but may be reimbursed for expenses incurred in performing their duties. All funds relating to the ACC shall be handled by the treasurer of the Association.

(f) Separate Village Approval. Matters which require approval of the ACC may also require the approval of the Village. Obtaining approval from the ACC and from the Village is solely the responsibility of the Owner desiring approval. Approval of Drawings by the ACC shall not be deemed approval by the Village and approval by the Village shall not be deemed approval by the ACC. ACC interpretations of Village ordinances shall not be binding on the Village.

(g) Uniformity Standards. Certain standards of architectural control are set forth in Sections 2.2 through 2.6 below. The ACC may adopt additional written standards of uniformity, setback, grading, landscaping, basements, roofing, or exterior, whether generally or for certain types of improvements. The ACC may enforce any standard even if it has, expressly or by acquiescence, permitted previous deviations from such standard.

(h) Indemnification. Each member or former member of the ACC, together with the personal representatives and heirs of each such person, shall be indemnified by the Association against all loss, costs, damages and expenses, including reasonable attorney's fees, asserted against, incurred by, or imposed in connection with or resulting from any claim, action, suit or proceeding, including criminal proceedings, to which such person is made or threatened to be made a party by reason or service as a member thereof, except as to matters resulting in a final determination of negligence or willful misconduct on the part of such member. In the event of settlement of such proceeding, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Association is advised by counsel that the person to be indemnified has not been guilty of negligence or willful misconduct in the performance of such person as a member in the matter involved. This right of indemnification shall be in addition to all other rights and defenses. All liability, loss, damage, costs and expense incurred or suffered by the Association in connection with this indemnification shall be a common expense. Nothing in this subsection shall be deemed an indemnification of such person with respect to such person's status as an Owner, Occupant or otherwise.

2.2 Antennas. No antenna, aerial, satellite dish or cable for television or radio reception which is greater than 30" in diameter shall be erected or installed on or in any roof or any other portion of a Building, on any Lot, or on the unimproved portions of such properties, except as erected or installed by Declarant, the Association, or any individual Owner with written approval of the ACC, and, in each case, in compliance with Village ordinances.

2.3 Minimum / Maximum Home Size Requirements.

(a) Only one single-family residence may be constructed on each Lot. The following types of residences on Lots shall have the following minimum sizes:

| Residence Type | Minimum Size |
|---|---|
| One story | 1,800 square feet |
| More than one story | 2,100 square feet |

(b) For purposes hereof, "more than one story" includes residences referred to as one and a half story, two-story, split level or bi-level. The type of residence and the number of square feet shall be determined on a uniform basis by the ACC and shall not include basement, attic, garage, porch or patio areas in the computation.

2.4 Garages / Driveway. Each residence on a Lot shall have an attached garage for not less than 2 cars attached to the residence containing a minimum of 440 square feet.

2.5 Certain Exterior Features. With respect to the construction of a Building on a Lot or other improvement to a Lot:

(a) All residences shall be sided with natural materials which shall include cement board siding. Fascia and soffit may be aluminum. All garage doors facing the street shall be decorative garage doors with either glass inserts or have architectural design such as carriage style or similar.

(b) A residence shall have a roof made of dimensional shingles, or better, with a minimum pitch ratio of 6:12, 8:12 for front facing gables, or such other pitch as is specifically approved by the ACC. "3-tab" shingles shall not be allowed.

(c) All fences are subject to review and approval by the ACC and are subject to all applicable Village ordinances, governmental easements and building codes. No fences shall be greater in height than forty-eight (48) inches and shall be constructed of quality wood or, if approved by the ACC, vinyl fencing that simulates wood; and shall be maintained in a satisfactory condition at all times. Chain-link or stockade fences are not allowed. No fences shall be permitted in the front yard area except for decorative wood or stone type fences in the areas of the corner of each Lot. Patio screening shall be allowed so long as it does not exceed 6' in height. Fences commencing from rear of building must conform to the height and setbacks as described herein. On corner lots, side-yard fences cannot extend beyond the building setback line. Fences shall be installed no closer than one foot from any property line. Any fence placed on a public easement area, right of way, or Common Area is done so at the owner's own risk and expense. Invisible electronic underground dog fences will be allowed if the dog(s) being fenced obeys the signal. If, at any time, the dog(s) come out of the yard unleashed, the Owner may be fined a minimum of Twenty–Five and No/100 Dollars ($25.00), or as determined by the Association. In addition, the Association may require the Lot to put up a standard fence at the Association's discretion.

(d) The ACC shall be acting reasonably if it disapproves the Drawings for a residence because such residence would be similar in appearance to other residences in close proximity.

(e) The ACC shall be acting reasonably if it requires that, on Lots with significant grades as determined by the ACC, portions of basement walls be exposed to allow for a more natural transition between residences. Any such exposed basement or foundation walls shall be covered with suitable material consistent with the overall architecture of the residence.

(f) No soil shall be removed from any neither Lot nor excess soil stored on any Lot (except for prompt use for backfilling, finish grading or landscaping) unless in either case contemplated by the approved Drawings. Even if so approved, the final grades (sometimes called a "finish grade") of a Lot must conform to grading plans approved by the Village.

(g) Only in-ground pools may be installed on a Lot and only with approval of the ACC. Above-ground pools shall not be allowed. The ACC will be deemed to be acting reasonably if it does not approve an in-

ground pool which is not completely enclosed by a secure wall or fence of a minimum of 4 foot elevation, with a self-closing or self-latching gate or door (at the top of such gate or door). There must be an unobstructed area of at least 4 feet between the fence and the pool. All swimming pools are subject to all applicable zoning ordinances and building codes. All swimming pools shall be no larger than what would be allowed by the applicable building codes, setbacks and lot area. All swimming pools shall have evergreen-type shrubs at least every four (4) feet of pool perimeter of a type, size and placement as approved by the ACC. The landscaping and shrubbery shall conceal the outside of the pool and structure. A detailed landscaping plan must be submitted and approved by the ACC prior to the start of any swimming pool construction. The exterior swimming pool color, lighting, deck, stairs and materials that surround the swimming pool at grade level (i.e. grass, concrete, brick pavers, decking, sand or stone) shall be approved by the ACC. ACC approval of the placement of swimming pools shall not be construed to conform to the Village or other regulatory bodies' approval. Separate approval shall be sought where necessary. Furthermore, ACC approval does not guarantee or supersede the requirement that proper drainage is maintained in accordance with the Declaration.

(h) Mailboxes & Lamppost:

(1) Mailboxes: The term "mailbox" shall mean the post and mailbox combination. A fee of $450 will be collected by the Declarant at each Lot closing for installation of a mailbox. This fee is in addition to the initial deposit to the Association. The Declarant will cause the initial installation of the mailbox, in locations as determined by the U.S. Postal Service. The Declarant may designate one or more styles of mailboxes to be used, guided by an effort to keep mailboxes as uniform as practicable. If any mailbox is damaged, destroyed, stolen, or any other adverse effected after the Owner purchases the Lot, the Owner shall be solely responsible (the Declarant and Association are not responsible), to repair the defect in a timely manner and at the Owner's expense. A mailbox that is replaced due to some adverse effect must obtain the approval of the ACC.

(2) Lamppost: The term "lamppost" shall mean the post and lantern combination including lamps and other devices. Each Owner is required to purchase, install and energize a front yard lamppost in a style and from a manufacturer approved by the ACC from time to time. The lamppost shall be purchased and installed by Owner, or Owner's contractor, and shall be operational before occupancy. The lamppost must be located in the front yard on the front door side of the driveway and fitted to use a lamp type as specified by the manufacturer or as designated by the ACC. Each lamppost shall be fitted with a photocell that automatically energizes the lamps at dusk and de-energized the lamps at dawn. Owner shall

maintain the lamppost in operational condition and shall not tamper with such lantern controls.

(3) Each Owner shall maintain its mailbox and lamppost in good condition and working order. If an Owner does not install or maintain, the Association may install, repair, replace, or maintain as deemed necessary by the Association and charge Owner for such amount plus a fee for services rendered as determined by Association. Without limiting the authority of the Association, the costs of enforcing the covenants in subsections may be assessed to an offending Owner or other method as outlined in Article 4.

(2) If Declarant, in its discretion, installs any mailbox or mailbox post, or performs or pays for any other matter required herein on behalf of any Owner, it shall not be deemed a waiver of any of the requirements herein as to any other Lot or Owner and shall not obligate Declarant to perform the same action on any other Lot, for any other Owner, or on any subsequent occasion.

(i) All utilities servicing the Lot shall be installed underground.

(j) No exterior active solar collectors shall be erected or installed unless approved by the ACC.

(k) All drives shall be asphalt or concrete or some other hard surface as approved by the ACC and shall be installed no later than twelve (12) months from occupancy. No permanent gravel drive will be permitted.

(l) Each Owner shall be permitted to erect a single dog kennel on their lot subject to the following provisions:

(1) The dog kennel shall be approved by the ACC prior to any construction activities. NOTE: Approval may be denied solely based on harmony of external design as determined by the aforementioned approving authority. All approvals must be in writing.

(2) The dog kennel shall comply with all Village and Waukesha County ordinances and codes. Municipal authorities should be contacted under separate application for approval as an approval by the ACC does not constitute an approval from any municipal authority.

(3) The dog kennel shall be directly adjacent to a single family home or attached garage and shall adhere to all setbacks and other restrictions as detailed on the Plat and in corresponding zoning regulations.

(4) The dog kennel shall be constructed of wood fencing or black vinyl-coated chain link fencing. No other fencing material is permitted. Fencing shall be maintained in a satisfactory condition at all times.

(5) The dog kennel shall not be taller than six (6) feet in height or have a footprint larger than one hundred (100) square feet.

(6) The dog kennel shall be set back at least ten (10) feet from any property line and shall not extend more than ten (10) feet from the adjacent single family home or attached garage. ACC may require a certified survey of homeowner's property boundaries at Owner's expense.

(7) Significant additional landscaping may be required.

(8) Owners shall maintain the cleanliness and appearance of a dog kennel. Residents are put on notice that at any time, with 24-hour notice, a representative of the Association may inspect the dog kennel to verify its cleanliness and compliance with this Declaration.

(9) Association reserves the right to take whatever action is necessary to ensure dog kennels are clean and in compliance with this Declaration, including the removal of noncompliant dog kennels. Individual Owners will be responsible for all costs incurred by the Association in cleaning, maintaining, or removing a dog kennel.

(10) It is the responsibility of dog owners to ensure their dogs do not violate the Waukesha County noisy animal ordinance, if any.

(m) Playground Equipment. If a Lot Owner chooses to install a play set of any size, whether temporary or permanent, said playground equipment must be approved in advance by the ACC.

(n) Outbuildings. Storage sheds or outbuildings of any size, temporary or permanent, shall not be permitted under any circumstance.

2.6 Grading and Landscaping.

(a) Declarant has established a master surface drainage plan consistent with the master grading plan on file with the Village (the "Master Grading Plan") designating the manner in which each Lot shall drain in relation to all other Lots. Compliance of all grading and construction work to the Master Grading Plan is important to the effective drainage of all Lots and affects the value of all Lots. Within sixty (60) days after substantial completion of a dwelling on any Lot, the Owner shall grade the Lot to conform to the Master Grading Plan. Each Owner will take such action as is reasonably necessary to maintain the grading and landscaping of the Owner's Lot in accordance with the Master Grading Plan, and shall refrain from taking actions which would cause the grading or landscaping to not conform to the Master Grading Plan without Village and ACC approval. Declarant and the Association shall each have the right to enter upon any Lot at any time for the purpose of inspection, maintenance, correction of any drainage condition, and the Owner shall be responsible for the cost thereof. Despite Declarant's

efforts to prepare a Master Grading Plan which will achieve the effective and efficient drainage of storm water from and within the Subdivision, Declarant does not warrant or represent that the Master Grading Plan will achieve any particular effect. Building envelopes are shown on the Plat. Any deviations to the Master Grading Plan shall require review and approval by the Village Engineer prior to the issuance of the building permit.

(b) A minimum of; 8 plantings along the street-side of the home (bushes, shrubs or similar and one - 2" caliper tree (at breast height), minimum 10 feet in height above grade at time of planting, shall be planted opposite the driveway along the front of the residence, near the street right of way.

(1) Each individual Lot Owner shall be responsible for installing and maintaining vegetative cover (a lawn or landscaping) on all exposed soil on their Lot to prevent erosion of the soil into unwanted locations. This vegetative cover must be installed within sixty (60) days of obtaining occupancy of the residence or, in the case of winter occupancy outlined in item (iii) below. Note that other materials are allowable around the foundation and paved surfaces including, but not limited to gravel, mulch, brick or any other material that will reduce erosion and permanently stabilize the disturbed areas of soil.

(2) Additional Requirements: If the Owner of any Lot, after reasonable written notice from the Association, fails or refuses to install vegetative cover as described herein, or maintain it as required above, the Association, through its duly authorized agents or employees, shall have the right to enter upon said Lot at reasonable hours to perform said landscaping and/or maintenance. The costs of the materials and labor to perform such landscaping and/or maintenance shall be assessed against said Lot in accordance with Wis. Stats. Sec. 66.0627.

(3) This restriction for vegetative cover does not apply during the winter months when growing conditions will not allow the establishment of vegetation cover. In such an event the owner shall be required to establish vegetative cover within sixty (60) days of proper growing conditions. The growing season for this area is anticipated to be from middle April to the middle of October.

(c) Plantings in the public and private easements should be avoided. Plantings within easements will be at-risk for removal by the Village's and may be subject to damage or removal for maintenance and/or repair operations.

## ARTICLE 3. ASSOCIATION OF OWNERS

3.1 Administration. Declarant shall establish the Association, which shall be incorporated and shall adopt Bylaws for its governance and administration of the Common Areas and Common Improvements. The Board may, but need not, from time to time adopt and amend Rules that are binding on all Owners and Occupants. The Board shall administer and enforce the Common Areas, the provisions of this Declaration and the Bylaws, the Rules, and all other uses of

and restrictions on the Property such as easements. Until the establishment of the Association, all powers of the Association shall be exercised by Declarant.

3.2 Membership and Voting. Effective as of the date of purchase or creation of a Lot, each Owner shall be a member of the Association. In the Association, the Owner(s) of each Lot shall be entitled to one vote for each Lot owned. If one or more Lots change their status to some other form of ownership, the votes appurtenant to each original Lot shall not be changed. No member shall be permitted to vote if such member is more than thirty (30) days delinquent in the payment of any amount due to the Association under Article 4 of this Declaration.

3.3 Control of Association. Declarant shall have the right to appoint and remove Directors of the Association and to exercise any and all powers and responsibilities assigned to the Association, the Board, or its officers, by the Articles, Bylaws, this Declaration or the Wisconsin Nonstock Corporation Law (as amended from time to time), until the earliest of: (1) fifteen (15) years from the date that the first Lot is conveyed to any person other than Declarant; or (2) thirty (30) days after the conveyance by Declarant to purchasers of 100% of the then existing Lots and occupancy permit granted for all Lots; or (3) Declarant's election to waive its rights to control. For purposes of this section, a "bulk" or multi-Lot conveyance to a party who is not intending to occupy the property conveyed shall not be considered a conveyance for purposes of (2) above. If Declarant adds additional real estate to the Property in accordance with Section 11.2, then for purposes of (2) above, the calculation of "100% of the then existing Lots" shall include any proposed Lots on the additional real estate.

3.4 Management. The Association may employ a professional management agent or company to assist in carrying out its duties regarding the Common Areas, the Common Improvements, and this Declaration, with such experience and qualifications and on such terms and conditions as are acceptable to the Board. Any such agreement must be terminable by the Board, without cause, upon ninety 90-day notice without payment of any penalty.

## ARTICLE 4. ASSESSMENTS

4.1 Budget and Assessments. In addition to the Lot purchase price, each Owner agrees to deposit with the Association at each closing on a Lot Five Hundred Fifty Dollars ($550.00) as an initial assessment. The Association shall also have the power to levy an annual assessment against each Lot in the Subdivision for the purpose of defraying, in whole or in part, the costs incurred by the Association, including cost to operate the Preserve improvements, and to fund capital accounts. Such annual assessment shall be levied by the Association as of March 1st of each year and a statement for such amount shall be mailed to the owner of each Lot as of such date and shall be payable on or before March 31 of each year. The Association shall annually adopt a budget of common expenses and levy assessments on the Lots allocating such assessments equally to each Lot, subject to the limitations herein. The budget shall include amounts representing assessments that are bad debts, and may but need not include a replacement reserve, which in each case shall constitute part of the general assessments. The Association may delegate authority to assess and collect any assessments to a third party. The Association may also levy (a) special assessments on all Lots for any purpose for which a general assessment or special assessment may be levied, or (b) fines on particular Owners for the purpose of collecting any amounts due the Association or enforcing

compliance by such Owners with any provision of this Declaration, the Bylaws or any Rules. The Board may adopt a Rule to impose uniform charges for services which the Association provides related to transfer of Lots, review of proposals under Article 2, and the like. The Board may adopt an initial budget showing the anticipated amounts necessary to cover common expenses.

4.2 Installments; Late Payments. General assessments shall be levied on an annual basis but shall be due and payable on March 31 or as determined by the Board from time to time and set forth herein. Special assessments shall be due and payable at such time and in such manner as the Board may determine. If the assessment is not paid when due then such assessment shall become delinquent and shall accrue interest at the rate of 12% per annum. Any assessment or installment of an assessment not paid within ten (10) days of its due date may also be subject to a late charge and/or interest as set forth in the Bylaws and/or in a Rule.

4.3 Enforcement; Liens. If an Owner defaults in any payment, the Association shall take appropriate measures as permitted by law. The defaulting Owner shall be responsible for all costs incurred by the Association in seeking to enforce payment including the Association's reasonable attorneys' fees and shall be prohibited from use of the Preserve. Owners shall be personally liable for assessments or fines and a lien shall be imposed against such Owner's Lot for any unpaid assessments. The lien shall be effective as of the recording of a notice thereof in the Register's Office, in the same manner as a condominium lien would be imposed. The lien shall be enforced generally in the manner in which condominium liens are enforced. Liens for unpaid assessments shall also extend to and secure interest, fines and reasonable costs of collection including attorneys' fees incurred by the Association incident to the collection of assessments or enforcement of liens. The Association may purchase a property upon the foreclosure of its lien. Under Section 3.2, an Owner delinquent in payments may in some cases not be permitted to vote on matters before the membership of the Association.

4.4 Association Statements. Within five (5) business days of written request from an Owner or a Mortgagee, the Association shall provide a letter stating the existence and amount of outstanding general or special assessments against the Owner's property, if any. Notwithstanding anything to the contrary in the preceding sentence, all property conveyed by Declarant shall be deemed conveyed free from outstanding general, special or working capital assessments and no such letter shall be required or given as to such property.

4.5 Common Expenses and Surpluses. Common expenses and surpluses shall be allocated in the same manner as general assessments are allocated. All common surpluses for each fiscal year shall be retained for common expenses for the next succeeding fiscal year.

## ARTICLE 5. MAINTENANCE AND ALTERATIONS

5.1 Owner Responsibility. Each Owner shall reimburse the Association for the cost of the Association's repair or replacement of any portion of the Common Areas or Common Improvements (including the Preserve) damaged through the fault or negligence of such Owner or such Owner's family, guests, invitees or tenants. Each Owner shall, at the Owner's cost, even if no residence has been constructed by such Owner, maintain the yard, including the cutting of grass and

snow removal from driveways and, if any, sidewalks, in an orderly and neat manner and shall maintain all structures on the Lot in good repair and condition.

5.2 Association Responsibility. The Association shall maintain in good condition and repair, including snow removal, replace and operate all of the Common Areas and Common Improvements, including easements, landscaping, trees and plantings in the Common Areas and trimming of such landscaping. The Association may, in its discretion, install additional Common Improvements in the Common Areas. Each Owner shall be responsible for its share of the cost for such activities. The Association shall release and indemnify Village for any maintenance responsibilities with respect to same. The Association shall also be responsible for the indemnification identified in Section 6.4 regarding waste disposal.

## ARTICLE 6. RESTRICTIONS ON USE AND OCCUPANCY

6.1 Permitted Uses. Each Lot shall be occupied and used only for single family residential purposes. The Preserve shall be used for the purpose of miscellaneous recreational amenities (including potentially, without limitation, a clubhouse, pool, playground and parking for same) as decided by the Association. In the case of home-based business, a home-business shall be approved by the ACC. A home-business shall only be approved if the home-business has no (zero) employees, outside immediate family members, and the home-business has no outside client, vendor or customer sales occurring at the home. No trade or business shall be carried on anywhere in the Subdivision, except for (1) the incidental use of a Lot for personal business conducted by mail and telecommunications which does not burden the use of the Subdivision by frequent visits by business service providers or customers, subject to any Rules relating to such burdens, or (2) the sale of Lots, subject to the other provisions hereof and any Rules related thereto, or (3) the establishment of offices by Declarant or its agents for sales of Lots or by the Association for conducting its affairs. The term "residential purposes" includes only those activities necessary for or normally associated with the use and enjoyment of a home site as a place of residence and limited recreation. Except with respect to the Preserve, no buildings shall be erected, altered, placed or permitted to remain on any Lot other than one detached single family dwelling not to exceed two stories in height. No garage or other mobile or accessory structure shall be used for temporary or permanent living or sleeping for family or guests without prior approval of the ACC.

6.2 Pets.

(a) Except as provided below, the Owner or Occupant may keep no more than three (3) pets per Lot on the conditions that:

(1) the pet is not permitted on any of the Common Areas while unattended or unleashed;

(2) the owner of the pet shall comply with such further rules of pet ownership as may be promulgated by the Board;

(3) the pet is licensed by the Village or appropriate licensing authority, if required under applicable ordinances;

(4) no reptiles or un-caged birds shall be permitted; and

(5) the pet must immediately and permanently be removed from the Property if, in the sole judgment of the Board, the pet is or becomes offensive, a nuisance or harmful in any way to the Property or any Owner or Occupant, or otherwise violates the terms of this Section 6.2 or any Rules adopted relating to pets. Possession of pets shall not be considered a property right.

(b) If a dog kennel or similar enclosure is to be erected and maintained for any pet, such kennel or enclosure will require approval prior to installation under Section 2.1 and Section 2.5(q). Any and all costs of repairing damage caused by a pet or other unauthorized animal of an Occupant shall be borne by its owner and, if different, the Owner of the Lot where the pet or other animal is housed.

(c) 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 providing they are not raised, bred and/or kept for commercial purposes.

6.3 Vehicles. No outdoor parking of vehicles shall be permitted on the Lots for more than 24 consecutive hours, without the express prior consent of the Board. No person shall occupy, park or otherwise use a vehicle so as to block access to a Lot. Storage or parking of trailers, campers, camping trucks, boats or other marine craft, horse or boat trailers, motorcycles, mopeds, motorized bicycles, vehicles licensed as recreational vehicles or commercial vehicles, snowmobiles, all-terrain vehicles, inoperative or unlicensed vehicles or the like shall not be permitted on a Lot, except (1) in a garage, (2) in the case of recreational vehicles, commercial vehicles, campers, trailers, and boats, outside of a garage for no longer than one twenty-four hours in a one week period; or (3) outside parking on a case by case basis as approved by the ACC.

6.4 Waste. Accumulations of waste, litter, excess or unused building materials or trash other than in appropriate receptacles is prohibited, and garbage containers shall be situated only in locations designated by the Association. Lots shall be kept free of debris during construction of improvements thereon by maintenance of a dumpster on-site. The refuse and garbage receptacles for each occupied residence shall be stored in the residence or garage, except for a period of 12 hours prior to and following the scheduled garbage pickup. All incinerators and other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

6.5 Temporary Structures. No structure, trailer, shack or barn, temporary or otherwise, shall be placed or maintained on any portion of a Lot or Common Area without written approval of the ACC, except for construction trailers maintained by Declarant and its successors and assigns, or the Association.

6.6 Quiet Enjoyment. Each Owner shall have the right to use its property in accordance with this Declaration and applicable law, free from unreasonable interference from any other Owner, Occupant and other invitee. No person shall cause or permit the Common Areas to be used so as to deny any Owner or Occupant the full use of the Common Areas except as permitted by

the Association under Section 3.5 or in accordance with rules established by the Association with respect to the Preserve.

6.7 Noxious Activity. No use or practice shall be allowed in the Subdivision or the Common Areas which is immoral, improper or offensive in the opinion of the Board or which is in violation of the WH Documents. By way of example and not limitation, offensive activity shall include excessive amplification of musical instruments and/or audio or audio visual equipment.

6.8 Patios and Balconies. Patios, decks and balconies of Buildings on Lots shall be kept in good condition and maintained in a quality similar to that of any Building on the Lot.

6.9 Signs. No Owner or Occupant may erect, post or display posters, signs or advertising material on the Common Areas or at locations within a Building which are visible from the public streets or Common Areas without the prior written consent of the Board, except (a) Declarant may do so without such approval and (b) an Owner may erect or post a temporary sign of customary and reasonable dimension relating to the sale of a Lot. The Board may at its discretion, in particular circumstances or in general, delegate its right to consent under this Section to the ACC described in Article 2. Where Board consent is sought and obtained, the permitted signs will be erected and maintained in accordance with all ordinances, rules, regulations and conditions applicable thereto. "Signs" as used herein shall be construed and interpreted in the broadest possible sense and shall include any placard, posters or other such devices as may be affixed to the interior of any exterior windows so as to be visible from the exterior of the Building.

6.10 Compliance with Laws; Environmental Matters. Each Owner and Occupant shall comply with all applicable governmental or Association statutes, ordinances, regulations or rules, including but not limited to, Village ordinance and those relating to the storage, transport and release to, from, on or in such Lot of any substance or compound governed by any one or more of Wis. Stats. Chap. 292 (as the same may be renumbered from time to time); Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"); Toxic Substances Control Act ("TOCSA"); Resource Conservation and Recovery Act ("RCRA"); Village ordinances; and similar laws relating to the storage, transport or release of substances, compounds or recyclable materials, all as in effect from time to time.

6.11 Obstructions. No playground equipment, bicycle racks or other equipment or material may be placed on the Common Areas.

6.12 No Further Divisions. No Lot may be further subdivided without the approval of the Village and the ACC.

## ARTICLE 7. SPECIAL FEATURES

7.1 Storm Water Facilities. The Common Areas include storm sewer and surface water drainage systems. The storm water facilities are located in commonly owned outlots as shown on the Final Plat and are Common Elements maintained by the Association in accordance with the Storm Water Agreement and shall be used solely for drainage and storm water purposes and not for recreational purposes. The Association has no duty to ensure the safety of persons using the drainage areas, or to warn of dangers concerning them. Neither the Declarant nor the Association is

responsible for the safety of any drainage area for use by humans or pets, and neither represents nor warrants that any drainage area is safe for any such use.

7.2 Easements. As provided on the Plat, there are easements located on various Lots for storm water utilities, overland storm water flow, underground utilities, and other items. These easements allow access by the Village, ACC or other entity to maintain, repair and access the Lots as may be required from time to time.

7.3 Parade of Homes. Declarant discloses that Declarant may arrange for the Subdivision to be included in the Metropolitan Builder's Association (the "MBA") Parade of Homes or similarly titled event in which members of the public are invited to inspect at one time, a number of Lots improved with Dwelling Units constructed by one or more contractors. Such events may result in temporary periods of significant construction activity, traffic slowdowns and large crowds, and may continue for a period of several weeks. A Lot Owner is deemed to acknowledge the possibility of said event and is deemed to have waived any objection to the issuance of any municipal permits required for such event. Declarant is not, however, required to include the Subdivision in any such event, and may base its decision on the Declarant's individual needs, if any. While the Parade of Homes is in progress all construction activities must stop by 2:00 p.m. on weekdays and 10:00 a.m. on weekends and Labor Day. All debris must be properly disposed of and the streets in front of the Lots must be swept clean of mud and stones. Non-parade Dwelling Units may not be open during the Parade of Homes. Unbuilt Lots may be used for Parade of Homes parking by Declarant. No home or Lot shall display any signs indicating the builders, subcontractors, or any property for sale during the duration of the Parade of Homes except those signs allowed in accordance with the MBA's rules and regulations. If the Lot Owner fails to participate in the Parade of Homes after agreeing to do so, Lot Owner shall reimburse the Declarant for any discounts, including but not limited to Lot price reductions, mailboxes, lanterns, and other fees paid by the Declarant for the Parade of Homes Lot Owner or builder, that the Lot Owner received by being a participant to the Parade of Homes.

7.4 Weyerhaven Preserve. The Declarant may construct improvements on the Lot known as "the Preserve" near Weyerhaven Boulevard. The Preserve may encompass various recreational amenities constructed on the Preserve Lot by Declarant or, after the period of Declarant control has ended, the Association. Upon completion of construction, Declarant shall sell the improvements to Association. Each Owner shall have the right to use the Preserve as with any other Common Area, subject to the rules and regulations created by the Association.

7.4.1 **Preserve Reimbursement**. Once the initial improvements are completed, the Declarant shall sell the improvements and deed the Preserve Lot to the Association and Association shall be purchase the improvements and Preserve Lot while remaining responsible for reimbursing the Declarant for all costs related thereto (the "Preserve Reimbursement") in the amount not to exceed Four Hundred Twenty Thousand Dollars ($420,000.00). The Association shall finance the transaction by entering into a loan with the Declarant for the balance of the Preserve Reimbursement less application of any Preserve Contribution (as defined below). For example, if forty (40) Lots have been sold at the time the improvements on the Preserve Lot are complete, then

Declarant shall sell the Preserve to the Association with an initial payment of $120,000 and a loan balance of $300,000. The term of the loan shall be five years at an interest rate of six percent (6%) with monthly, interest only payment. Declarant shall have the right to secure this obligation with a mortgage against the Preserve Lot. Any Preserve Contributions obtained after sale of the improvements and Preserve Lot to the Association shall be paid to the Declarant as principal reductions until such time as the Preserve Reimbursement is complete. The Association's obligation to reimburse the Declarant shall continue until such time as the amount of the Preserve Reimbursement is fully paid.

7.4.2 **Preserve Contribution.** In order to fund the Preserve Reimbursement, the Association shall collect the Preserve Contribution ("the Preserve Contribution") from each Lot Owner. At Closing, Declarant shall set aside Three Thousand Dollars ($3,000.00) of its proceeds from the sale of each Lot to fund the Preserve Contribution. Notwithstanding the foregoing, Declarant shall not be required to pay the Preserve Contribution. In the event that the Preserve improvements are not constructed within thirty-six (36) months of recording of the final plat of the Subdivision, Declarant shall return any unexpended amounts to the Lot Owners on a pro rata basis.

7.4.3 **Rules and Regulations.** The Association shall, through its Board of Directors, establish all rules and regulations regarding the use of the Preserve, including without limitation rules related to hours of use and permitted and prohibited activities and conduct.

7.4.4 **Maintenance, Repair, and Replacement.** Subject to other applicable provisions of this Declaration, the Association shall maintain, repair and replace the Preserve to the extent determined necessary or advisable by the Association and as required by law.

7.4.5 **Insurance.** The Association shall insure the Preserve against direct loss or damage occasioned by fire, extended coverage perils and other hazards in amounts and with insurers reasonably chosen by the Association. Such insurance shall be issued in an amount without co-insurance at least equal to the full value any Building(s) and other improvements erected thereon. The Association shall also maintain general public liability insurance and such other insurance with coverages, in amounts and with insurers that the Association reasonably requires from time to time.

7.4.6 **Annual Budget.** Each year as outlined in the Bylaws of the Association, the Association, through its Board of Directors, shall estimate the total amount necessary to pay for the following calendar year the costs of operating, maintaining, repairing and replacing the Preserve. Expenses shall include without limitation all costs of employees, payroll taxes, materials, parking costs, insurance, services, management fees, supplies, maintenance, repair,

landscaping, fuel and power, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements.

7.4.7 **Reserves.** The Association, by its Board, shall build up and maintain a reasonable reserve for contingencies and replacements for the Preserve. The Association shall first charge against such reserve all extraordinary expenditures for the Preserve not originally included in the annual estimate which may become necessary during the year. If the Annual Budget proves inadequate for any reason (other than as a result of the failure by one or more unit owners in the Association to pay their assessments), the Board may, at any time, levy a further assessment, which shall be assessed in the same proportion as other general assessments.

## ARTICLE 8. INSURANCE

8.1 Association Insurance. The Association shall obtain and maintain comprehensive general public liability insurance for occurrences on the Common Areas (including areas which are included in such definition by virtue of easements granted herein) and with respect to Common Improvements not in the Common Areas, all-risk casualty insurance coverage on all Common Improvements, and such other policies and/or coverage as the Board deems necessary or advisable.

8.2 Coverage of Association Insurance. The casualty insurance coverage shall be in an amount equal to the maximum insurable replacement value, with an "agreed amount" and a "replacement cost" endorsement, without deduction or allowance for depreciation. This coverage amount shall be annually reviewed and shall insure against loss or damage by fire and other hazards as commonly covered by a standard extended coverage endorsement and such other hazards as customarily covered with respect to buildings similar in construction, location and use. Commercial general liability coverage shall be in such amounts as the Board determines annually, but not less than $1,000,000 per occurrence.

8.3 Proceeds. Association Insurance proceeds for casualty loss shall be for the benefit of the Association in order to finance construction of damaged Common Areas or Common Improvements. Liability coverage and other insurance proceeds shall be applied as the Association directs.

8.4 Cost. All premiums for Association Insurance and other insurance obtained by the Association shall be a common expense.

8.5 Waiver. The Association and, by acceptance of a conveyance to a Lot or the use thereof, or any portion thereof or interest therein, each Owner or Occupant acting both for themselves and for their respective insurers, waive any claim it or they may have against the other for any loss insured under any policy obtained by either to the extent of insurance proceeds actually received, however the loss is caused, including such losses as may be due to the negligence of the other party, its agents or employees. All policies of insurance shall contain a provision that they are not invalidated by the foregoing waiver, but such waiver shall cease to be effective if the existence

thereof precludes the Association from obtaining any policy of insurance at a reasonable and customary rate.

8.6 Acts Affecting Insurance. No Owner or Occupant shall commit or permit any violation of covenants or agreements contained in any of the Association Insurance, or do or permit anything to be done, or keep or permit anything to be kept, or permit any condition to exist, which might (a) result in termination of any such policies, (b) adversely affect the right of recovery thereunder, (c) result in reputable insurance companies refusing to provide such insurance, or (d) result in an increase in the insurance rate or premium over the premium which would have been charged in the absence of such violation or condition, unless, in the case of such increase, the Owner or Occupant responsible for such increase shall pay the same. If the rate of premium payable with respect to the Association Insurance shall be increased by reason of, (1) the size, design or composition of a Building, or (2) anything done or kept in a property subject to this Declaration, or (3) the failure of an Owner or Occupant to comply with Association Insurance requirements, or (4) the failure of any such Owner or Occupant to comply with this Declaration or the Bylaws, then the particular Owner or Occupant shall reimburse the Association for the resulting additional premiums. The Association reimbursement right is without prejudice to any other Association remedy, and may be enforced by special assessment against the particular property involved.

8.7 Exclusions From Coverage. Association Insurance coverage shall exclude (a) coverage on any residence or personal property located within or pertaining to the exclusive use of an Owner except to the extent included as a standard coverage in the policy of Association Insurance; and (b) liability coverage on an Owner or Occupant, its guests, invitee, employees or tenants, arising out of any occurrences within a Lot and/or relating in any way to an Owner's or Occupant's personal property. It is the sole responsibility of each Owner or Occupant to obtain such insurance coverage as are excluded from Association Insurance.

## ARTICLE 9. AMENDMENT OF DECLARATION

9.1 General. Except as otherwise provided herein, this Declaration may be amended only by the written consent of no less than sixty seven percent (67%) or more of the total votes of the Association then entitled to vote. Regardless of the manner of adoption, no amendment shall adversely affect a special right or easement reserved to Declarant under this Declaration, or the rights of Mortgagees under Article 10, without the express written consent of Declarant, or 51% of the Mortgagees, or the Village, as the case may be. Moreover, Declarant also reserves the right to unilaterally change and amend the Declaration until one (1) year after 100% of the then existing Lots have been sold to an Owner intending to reside thereon and occupancy permits granted for each Lot. During such period, Declarant may also enter into other agreements on behalf of Association for purposes of easements and/or other items necessary for the orderly running and maintaining the Subdivision and/or Association, provided however, that any amendments to the restrictions where the Village is involved may require the approval by the Village.

9.2 Procedures. Except with respect to a Declarant amendment, Amendments shall be prepared and executed by the president of the Association and shall become effective when recorded in the Register's Office. No action to challenge the validity of an amendment shall be commenced more than one (1) year after the amendment is recorded.

## ARTICLE 10. RIGHTS OF MORTGAGE HOLDERS

10.1 Notice. Any Mortgage holder, insurer or guarantor of a Mortgage on a Lot who submits a written request to the Association, identifying the name and address of such holder, insurer or guarantor and the property involved, will be entitled to timely written notice of:

(a) Any thirty (30) day delinquency in the payment of assessments owed by the Owner of the property on which it holds a Mortgage or any breach of the provisions of any of the Documents which is not cured by such Owner within thirty (30) days of such Owner's receipt of notice of such breach;

(b) A lapse, cancellation or material modification of any Association Insurance; and

(c) Any proposed action that requires the consent of a Mortgage holder.

10.2 Mortgagee Acquisition of Lot. A Mortgagee acquiring title to a Lot pursuant to remedies provided in its Mortgage or by a deed in lieu of foreclosure following an Owner's default under the Mortgage shall not be liable for such property's unpaid assessments under this Declaration accruing prior to the Mortgagee's acquisition of title to such property (except to the extent unpaid assessments are included in subsequent budgets generally), but shall ensure that any such prior delinquent assessments are paid upon transfer of the Lot to a third party.

## ARTICLE 11. RIGHTS OF DECLARANT

11.1 Reserved Rights. Prior to the sale of all Lots by Declarant and occupancy permits granted for all Lots, Declarant:

(a) may use the Common Areas, and any unsold Lots in any manner as may facilitate the sale of Lots including, but not limited to, maintaining a sales and/or rental office or offices, models and signs and/or showing the Lots. Declarant may from time to time also delegate such rights (on a non-exclusive basis and subject to such conditions as Declarant may impose) to persons desiring to construct Buildings on particular Lots as model homes. In delegating such rights to other persons, Declarant's delegees shall not have the right, without Declarant's express written consent, to locate a general office operation in any such model home, although use of a model home to facilitate sales of Lots or sales of Buildings on Lots may be permitted for a period not to exceed forty-eight (48) months from the date of issuance of the certificate of occupancy therefor; provided, however, that once a model home is used as a residence for an Occupant, it may not thereafter be used as a "model home".

(b) shall have the right to (1) grant easements upon, over, through and across the Lots (limited to the 10 feet area adjacent to each Lot line, except for the Public Access easement provided for in Section 7.3, (which shall be 20 feet), which rights shall

expire one (1) year after conveyance of a Lot by Declarant, and the Common Areas as may be required in Declarant's opinion for furnishing any kind of utility services, and maintenance and replacement thereof, or for drainage or other public purposes including, but not limited to, cable television or master antenna service, if any, which easements may be granted to itself or its nominee and as may be necessary for excavation and construction of any Buildings and (2) grant easements upon, over, through or across the Common Areas for ingress and egress and maintenance and replacement thereof, to and from, and within, the Property and other real property adjacent to it.

(c) shall have the right to veto any proposed amendment to this Declaration for any reason or no reason, in which case it shall not be deemed approved or effective.

For purposes of this Section, a "bulk" or multi-Lot conveyance to a party who is not intending to occupy the property conveyed shall not be considered a "sale".

11.2 ADDITION TO OR SUBTRACTION FROM THE SUBDIVISION. Declarant reserves the right, at any time during the term of this Declaration and in its sole discretion, from time to time subject additional real estate to this Declaration by recording this document against such real estate and such additional real estate shall then be a part of the Subdivision from and after the date of such recording. The additional real estate will be located in Waukesha County, Wisconsin and, when added to the Subdivision, shall be adjacent to the Subdivision, as approximately shown on Exhibit B. Declarant shall add the additional real estate to the Subdivision by recording with the Register of Deeds for Waukesha County one or more amendments to this Declaration, with each amendment setting forth the legal description of the additional real estate thereby added to the Subdivision. For so long as the Declarant is in control of the Association, the Declarant may also, in its sole discretion, by an appropriate recorded document, remove land from the effect of this Declaration and thereby reduce the extent of the Subdivision, without the consent of the then Lot Owner of such land. Upon such addition, Declarant will provide a revised annual Budget and annual assessments. Any assessments prior to the addition of the new real estate, will be pro-rated and adjusted by the Association accordingly. Each Lot Owner in the additional real estate shall have the same rights and obligations as if such Lot Owner was a Lot Owner under the initial Declaration. All Lot Owners acknowledge that the proportionate share of expenses and the corresponding assessments will be revised to reflect the presence of additional Lots. Each Lot Owner also acknowledges that assessments could increase or decrease based on the facts and circumstances in effect at the time of such addition or subtraction.

## ARTICLE 12. REMEDIES

12.1 General Remedies. If any Owner or Occupant fails to comply with this Declaration, the Bylaws, or the Rules, such Owner or Occupant shall be liable for damages, subject to injunctive relief (including an order requiring the removal at the Owner's expense of Buildings constructed without ACC approval), subject to any other remedy provided by the Bylaws or at law, or all of the above, as a result of such noncompliance. The Association or, in a proper case, an aggrieved Owner, may bring an action because of such noncompliance.

12.2 Owner or Occupant Violation; Association Right to Cure. In addition to any other remedies provided herein, if any Owner or Occupant fails to comply with this Declaration, the Bylaws, or the Rules, which failure continues for a period of fifteen (15) days following written notice from the Association, the Association shall have the right, but not the obligation, to perform or cause to be performed such maintenance, replacement, restoration or other action as the Association deems necessary or appropriate, and if an action or other proceeding is commenced in connection therewith, using the fund established in Section 4.1. Expenses incurred therefor by the Association shall be assessed against the Owner or Occupant and shall be subject to all rights and remedies reserved under this Declaration with respect to collection, expense, late payment penalties or interest, filing of a lien and/or foreclosure as reserved at Article 4 of this Declaration. Once the Association has taken such an action, it shall not be obligated to take any other or further action with respect to the same, similar or subsequent failure by the same or a different Owner or Occupant.

## ARTICLE 13. EASEMENTS

13.1 Right of Entry. A right of entry to each Lot or Common Area is reserved to the Association to service utility installations located on, in or under such Lot or Common Area provided request for entry is made in advance and such entry is limited in scope so as to extend only as is reasonably necessary to service such utility installations. In case of emergency, entry by the Association onto any such Lot or Common Area may be made immediately, whether the Owner or Occupant of such Lot or Common Area is or is not present and without liability of the Association or its agents if such entry is necessary for the safety or welfare of persons or property. Any damage or loss caused as a result of such emergency entry shall be the sole expense of the Owner or Occupant if, in the reasonable judgment of those authorizing the entry, such entry was for emergency purposes.

13.2 Common Area Easements. The Association may grant easements over and through the Common Areas for such purposes as the Board deems reasonable for the benefit of the Owners. The easements granted to the Owners may include, but are not limited to, the public access provided for in Section 7.3 above at such time as development of the property to the east necessitates the same.

## ARTICLE 14. TERMINATION

14.1 Termination. This Declaration shall be in effect for a period of twenty-five (25) years and automatically renewed for successive periods of ten (10) years each, unless terminated at the end of the original or any extended term by: (1) Declarant (if during the period of Declarant control of the Association), or (2) the written consent of the owners of not less than 90% of the aggregate then existing Lots provided that no vote shall effect an amendment to or termination of any provision hereof conferring on or reserving a special right or easement to Declarant without the express written consent of Declarant, as appropriate. Voluntary termination of this Declaration must be express and shall be effective upon recording a written instrument to such effect in the Register's Office.

## ARTICLE 15. CONSTRUCTION AND EFFECT

15.1 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

15.2 Including. Whenever used herein, the term "including" preceding a list of one or more items shall indicate that the list contains examples of a general principle and is not intended as an exhaustive listing.

15.3 Captions. The captions and article and section headings in this Declaration are intended for convenience and reference only and in no way define or limit the scope or intent of the various provisions hereof.

15.4 Severability. If any portion of this Declaration or its application to any person or circumstance is held to be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or any part thereof, to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby. The remainder of this Declaration shall be valid, and enforced, to the fullest extent permitted by law.

15.5 Remedies. All remedies herein are cumulative.

15.6 Waivers. Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; no waiver, consent or approval shall be implied. A waiver, consent or approval to any one matter shall not be deemed a waiver, consent or approval to any subsequent matter whether similar or not.

15.7 Assignment of Declarant's Rights. Declarant may from time to time assign any or all of the rights and benefits conferred on or reserved herein for Declarant in its status as such (as opposed to those rights or benefits conferred on or reserved for all Owners or groups thereof), by an instrument in writing specifically identifying the rights and benefits so assigned which is recorded in the Register's Office.

15.8 Other Regulation. Nothing herein shall preclude or restrict Declarant recording other covenants, conditions or restrictions which further regulate portions of the Subdivision which Declarant owns at the time of recordation.

[SIGNATURES TO APPEAR ON FOLLOWING PAGE]

Executed on the 10th of DECEMBER 2014.

Weyerhaven, LLC

By: _____

MATTHEW NEUMANN, President

Neumann Companies, its Sole Member

STATE OF WISCONSIN )
) ss.
COUNTY OF WAUKESHA )

Personally came before me this 10th day of DECEMBER 2014, the above named MATTHEW NEUMANN of Weyerhaven, LLC, by its authority, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

KEVIN A. ANDERSON
NOTARY PUBLIC
STATE OF WISCONSIN

_____
KEVIN A. ANDERSON
Notary Public, State of Wisconsin
My commission: 01/28/18

This instrument was drafted by:

Kevin Anderson
Neumann Companies.
N27 W24075 Paul Court
Suite 200
Pewaukee, Wisconsin 53072

**EXHIBIT A**

Legal Description

All of Lot 1 of CSM 11176 located in all of that part of the Southwest ¼ of the Northwest ¼ of Section 25, Township 8 North, Range 20 East, Village of Menomonee Falls, Waukesha County, Wisconsin.

## EXHIBIT B: Potential Expansion Area

Document Number

**SECOND AMENDMENT TO THE**

**DECLARATION OF PROTECTIVE COVENANTS OF WEYERHAVEN SUBDIVISION**

Document Title

4238575

REGISTER OF DEEDS
WAUKESHA COUNTY, WI
RECORDED ON

October 14, 2016 01:14 PM
James R Behrend
Register of Deeds
4 PGS
TOTAL FEE:$30.00
TRANS FEE:$0.00

Book Page -

Recording Area

Name and Return Address:
Weyerhaven, LLC
c/o Neumann Companies Inc.
N27 W24075 Paul Court,
Suite 200,
Pewaukee, WI 53072

PIN:

pd 30/4

This Second Amendment to the Declaration of Protective Covenants of Weyerhaven Subdivision (the "Second Amendment") is made this 14th day of October, 2016, by Weyerhaven, LLC ("Declarant"), a Wisconsin limited liability company.

## RECITALS

A. Weyerhaven, LLC created that certain Declaration of Protective Covenants for Weyerhaven Subdivision dated December 10, 2014 and recorded on December 11, 2014 as Document No. 4114580 in the office of the Register of Deeds of Waukesha County, Wisconsin (the "Declarations"). The Declaration encumbers certain real property located in the Village of Menomonee Falls (the "Village"), Waukesha County, Wisconsin as more fully described on Exhibit A attached hereto (the "Subdivision"); and

B. Weyerhaven, LLC created that certain First Amendment to the Declaration of Protective Covenants for Weyerhaven Subdivision dated January 05, 2016 and recorded on January 06, 2016 as Document No. 4185626 in the office of the Register of Deeds of Waukesha County, Wisconsin (the "Declarations"); and

C. The Declaration, Section 9, reserves the right, until one (1) year after 100% of the then existing lots have been sold, to amend the Declarations by recording a document with the Register of Deeds of Waukesha County; and

D. Declarant hereby desire to amend the Declarations as outlined below.

## AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, the Declarations are hereby amended as follows:

1. Delete Section 2.5.(c) "Fencing" in its entirety and replace with the following:

2.5.(c) All fences are subject to review and approval by the ACC and are subject to applicable Municipal ordinances, governmental easements and building codes. Fences shall not exceed forty-eight (48) inches in height, shall be constructed of ornamental/decorative metal (wrought iron or aluminum), stone, masonry, or simulated wood (composite or vinyl that simulates wood in texture and color), and shall consist of at least 50% open space. Chain-link, natural wood, stockade fences and white vinyl fencing are not allowed. Subject to ACC approval, fencing may be permitted in the front yard in limited quantities provided it is decorative. Fences shall be installed no closer than twenty-four inches (24") from any property line unless the Lot Owners mutually agree, in writing, to install a single fence along the property line. In such case, a variance request should be submitted to the HOA/ACC. Fences shall not be located on a public easement area, drainage area, right of way, or Common Areas. Fencing approved by the ACC prior to the recording of this First Amendment shall be "grandfathered" and not subject to this amended section.

2. Delete Section 2.5.(g) "Pools" in its entirety and replace with the following:

2.5.(g) Only in-ground pools may be installed on a Lot (above-ground pools shall not be allowed) and only with approval of the ACC and such approval shall not be construed as a review of conformance to the Municipal or other regulatory bodies' requirements. Pools shall be completely enclosed by a wall or fence of a minimum of 4 foot elevation, with a self-closing or self-latching gate or door (at the top of such gate or door) with at least 4 feet clearance between the fence and the pool. Owner is responsible to insure conformance to applicable Municipal and State codes, ordinances to insure conformance to size, setbacks and any other requirements. Pools approved by the ACC prior to the recording of this First Amendment shall be "grandfathered" and not subject to this amended section.

3. Delete Section 2.5.(l) "Dog Kennels" in its entirety and replace with the following:

2.5.(l) Dog Kennels shall not be allowed on any lot regardless of municipal ordinance or code. Dog kennels approved by the ACC prior to the recording of this First Amendment shall be "grandfathered" and not subject to this amended section.

4. Ratification of Declaration: Except as expressly modified by this First Amendment, all other terms of the Declarations shall remain in full force and effect and binding upon the parties hereto. In the event of any conflict or inconsistency between the terms and conditions of this First Amendment and the Declarations, as may be amended, the terms and conditions of this First Amendment shall control and govern. In all other respects, the terms and conditions of the Declarations are hereby ratified in their entirety and shall remain in full force and effect according to its terms.

[SIGNATURES ON FOLLOWING PAGE]

Dated as of the date first written above.

**Declarant:**

Weyerhaven, LLC

By: Neumann Companies, Inc., its sole member

By: _____
Matthew K. Neumann, President

**ACKNOWLEDGMENT**

STATE OF WISCONSIN, )
) ss.
WAUKESHA COUNTY )

Personally came before me this 14th day of October, 2016, the above named Matthew K. Neumann, President of Neumann Companies, Inc. to me known to be the person who executed the foregoing instrument and acknowledge the same.




_____
Name: Kevin A. Anderson
Notary Public, State of Wisconsin
My commission: 01/28/18

Drafted by:
Kevin Anderson
Neumann Companies, LLC
N27 W24075 Prairie Court, Suite 200
Pewaukee, WI 53072
(262) 542-9200

# EXHIBIT A

Legal Description of

**WEYERHAVEN**

Being a subdivision consisting of lots 1 thru 88, located in a part of the Northwest ¼ and Southwest ¼ of the Northwest ¼ of Section 25, Town 8 North, Range 20 East, in the Village of Menomonee Falls, Waukesha County, Wisconsin.

BYLAWS OF
WEYERHAVEN HOA, Inc.

Document Number

Document Title

4114581

REGISTER OF DEEDS
WAUKESHA COUNTY, WI
RECORDED ON

December 11, 2014 12:47 PM
James R Behrend
Register of Deeds
18 PGS
TOTAL FEE:$30.00
TRANS FEE:$0.00

Book Page -

Recording Area

Name and Return Address

Weyerhaven HOA
c/o Neumann Companies
N27W24075 Paul Court, Suite 200
Pewaukee, WI 53072

Parcel Identification Number (PIN)

0510/18

**THIS PAGE IS PART OF THIS LEGAL DOCUMENT – DO NOT REMOVE.**

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clause, 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

# *BYLAWS*
# *OF*
# *WEYERHAVEN HOMEOWNERS ASSOCIATION, INC.*

*December 10, 2014*

# BYLAWS

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# BYLAWS
# OF
# WEYERHAVEN HOMEOWNERS ASSOCIATION, INC.

The following Bylaws are accepted by the initial Board of Directors of the corporation (as indicated in the Articles of Incorporation of the corporation) as of the 10th day of December, 2014.

All capitalized terms used herein but not otherwise defined herein shall have the same meaning ascribed to them in the Declaration of Protective Covenant of Weyerhaven Subdivision, as may be amended from time to time (the "**Declaration**") as recorded in the register of Deeds for Waukesha County, Wisconsin.

## Article I. Purposes

Section 1. Purposes. The purposes for which this corporation (also referred to as the "**Association**") is organized and shall be operated are as follows:

(a) To serve as an association of owners who own single-family residential real estate in the Weyerhaven Subdivision, as described in **Exhibit A**, pursuant to the Declaration;

(b) To provide for the administration, maintenance, preservation and control of the officers of the Association and the Common Areas (including the Preserve) in accordance with and in furtherance of the Declaration;

(c) To provide for the maintenance and repair of private storm sewer where located within the private drainage easements shown on the final plat;

(d) enforcing compliance of the Owners with the Declaration;

(e) to own certain designated Common Areas such as the Preserve; and

(f) To engage in any lawful activity within the purposes for which corporations may be organized under The Wisconsin Nonstock Corporation Law, Chapter 181 of the Wisconsin Statutes, as the same now provides and as the same may hereafter be amended to provide, subject to the Declaration.

## Article II. Offices

Section 1. Principal Office. The initial principal office of the Association shall be located at N27 W24075 Paul Court, Suite 200, Pewaukee, Wisconsin 53072. The Association may have such other offices, either within or without the State of Wisconsin, as the Board of Directors may designate from time to time.

Section 2. Registered Office. The initial registered office shall be the same as principal office.

## Article III. Association

Section 1. Membership. Each Owner shall be a member of the Association. The Members shall have one (1) vote for each Lot owned. Every Owner, upon acquiring title to a Lot under the terms of the Declaration, or upon entering into a land contract for the purchase of a Lot, shall automatically become a Member of the Association and shall remain a Member thereof until such time as his or her ownership of such Lot ceases for any reason, at which time his or her Membership in the Association shall automatically cease. In the event a Lot is owned by more than one (1) person or entity, the person or entity who shall be entitled to vote for the Lot shall be the person or entity named on a certificate executed by all of the co-owners of the Lot and filed with the Secretary of the Association.

Section 2. Owners Prohibited from Voting. No Owner may vote at any meeting if his monthly assessment fee or any other special assessment fee is thirty (30) days past due and/or the Association has a lien against the Lot for an unpaid amount due the Association, or if the Association has instituted an action to perfect a lien and the amount necessary to release such lien has not been paid at the time of such meeting, or if the amount necessary to release an instituted lien action has not been escrowed with a title insurance company authorized to do business in the State of Wisconsin.

Section 3. Proxies. Any vote may be cast pursuant to a proxy executed by an Owner. No proxy shall be revocable except by actual notice of revocation given to the presiding officer of the meeting by the Owner or by the majority in interest of the co-owners. All proxies must be filed with the Secretary of the Association before the time of the meeting for which they are given. Every proxy shall state the time at which it shall terminate, the date it was executed and that it shall not be revocable without notice. In any event, except with respect to proxies in favor of a Mortgagee, no proxy shall be valid for a period in excess of one hundred eighty (180) days.

Section 4. Membership Roster. The Secretary of the Association shall maintain a Membership Roster which states the name, mailing address, and electronic mail ("e-mail") address for each person or entity entitled to cast a vote on behalf of a Lot, co-owners of a Lot shall provide the Association with a certificate naming the individual or entity entitled to vote on behalf of the Lot. Any change in the designation of the individual or entity entitled to vote shall be delivered to the Secretary of the Association.

Section 5. Annual Meetings. The first annual meeting of the Association shall be held within twelve (12) months following the date of recordation of the Declaration. Unless otherwise determined by the Board of Directors, annual meetings of the Association held after the first annual meeting shall be held on the same day of the same month of each succeeding year, unless such date shall occur on a Saturday, Sunday or legal holiday, in which event the meeting shall be held on the next succeeding Monday which is not a legal holiday. Meetings of the Association shall be held at

such suitable place convenient to the Owners as from time to time may be designated by the Board of Directors.

Section 6. Special Meetings. The President, the Board of Directors or the Members having fifty percent (50%) of the votes in the Association may call a special meeting, upon written notice from the President or the Board of Directors or by written petition of petition signed by Owners holding not less than fifty percent (50%) of the votes eligible to be cast at such time by the Owners. The only issues which may be addressed at a special meeting are those issues stated in the notice of such meeting.

Section 7. Notice of Meetings. The Secretary shall cause to be sent to each Owner written notice of the time, place and purpose or purposes of all general and special meetings of the Association. Such notice shall be given at least ten (10) days but no more than thirty (30) days in advance of the meeting. Such notice shall be sent by either e-mail or United States mail, first class postage prepaid, to the mailing and/or e-mail address listed in the Membership Roster. In lieu of mailing notice of a meeting in the manner provided in this Section, the Secretary may cause such notice to be personally delivered; provided however, the Secretary of the Association shall certify in writing that such notice was personally delivered to the Owner.

Section 8. Conduct of Meetings. The minutes of all meetings shall be held in a minute book maintained for the Association by the Secretary. The then current Robert's Rules of order or any other rules of procedure acceptable to a majority of the votes of the Owners shall govern the conduct of all meetings of the Association when not in conflict with these Bylaws or the Declaration. All votes shall be tallied by a person or persons appointed by the presiding officer of the meeting.

Section 9. Majority Required to Act. Except as otherwise required by the Act, the Declaration or these Bylaws, decisions of the Association shall be made by a Majority of the votes of the Owners present, in person or by proxy, at a meeting of the Association at which a quorum is present.

Section 10. Quorum. A quorum for the purposes of general or special meetings shall consist of thirty-three percent (33%) of the votes entitled to vote unless otherwise required by the Declaration or these Bylaws.

Section 11. Action Without Meeting. Any action by Owners required or permitted to be taken at a meeting may be taken without a meeting if all of the Owners (and Mortgagees, if required) shall consent in writing to such action. Any such unanimous written consent shall be filed with the minutes of the proceedings of the meetings of the Association.

## Article IV. Board of Directors

Section 1. General Powers. The affairs of the Association shall be managed by its Board of Directors. The Board of Directors shall utilize and distribute the net earnings and principal funds of the Association solely in accordance with the purposes for which the Association was organized.

Section 2. Number. The initial number of Directors should be three (3).

The initial Directors appointed by the Declarant are Matthew Neumann (President), Kevin Anderson (Vice-President), and Wendy Griffin (Secretary) for a term of two (2) years ("**Initial Term**"). Upon expiration of the Initial Term or earlier if decided by the Board, Directors shall be elected from among qualified persons nominated by Members of the Association at an Annual or Special Meeting of the Association. At no time shall the Board consist of more than five (5) Directors.

Section 3. Term of Office. After the Initial Term as provided above, the term of office of Directors shall be for two (2) calendar years. If any Director shall die, resign, be unable to act or cease to be qualified to be a Director, the unexpired term of such Director shall be filled in accordance with Section 9 of this Article IV. In no event shall the vacancy of any office of Director operate to invalidate any actions of the Board taken during the period of vacancy.

Section 4. Powers and Duties. The Board of Directors shall have all of the powers and duties necessary or required for the administration and implementation of the affairs of the Association. Such powers and duties shall be exercised in accordance with the provisions of the Declaration, applicable law and these Bylaws. Such powers and duties shall include, but not be limited to the powers and duties set forth in the Declaration and the following:

(a) To promulgate and enforce Rules and Regulations for the conduct of persons and use of property in the subdivision.

(b) To open bank accounts on behalf of the Association and designate the signatories required therefor.

(c) To initiate, prosecute and settle litigation for itself and the Association, provided that it shall make no settlement which results in a liability against the Board of Directors.

(d) To obtain insurance on behalf of the Association as required by the Declaration with respect to the Lots and the Common Areas, to obtain insurance in accordance with these Bylaws and to settle any claim under any such policies of insurance, and to obtain such other coverages and amounts of insurance as are necessary, reasonable, customary or desirable including, but not limited to, Directors' and Officers' Liability Insurance coverage and Commercial General Liability Insurance coverage on the Common Areas.

(e) To own, purchase or lease, hold and sell, or otherwise dispose of, on behalf of the Owners, items of personal property necessary to or convenient in the conduct and management of the business and affairs of the Association and in the operation of the Property, including without limitation, furniture, furnishings, fixtures, maintenance equipment, appliances and office supplies.

(f) To have a corporate seal, if required.

(g) To approve and sign checks and issue payment vouchers.

(h) To pay off liens against any portion of the Common Areas.

(i) To borrow money and enter into promissory notes on behalf of the Association when required in connection with the operation and maintenance of the Common Areas.

(j) To retain third parties to maintain and repair the Common Areas as the Board deems necessary in accordance with the Budget.

(k) To appoint a Managing Agent to carry out the day to day management duties of the Board and the Association.

Section 5. Regular Meetings. The Board of Directors may provide, by resolution, the time and place, within the State of Wisconsin, for the holding of regular meetings.

Section 6. Special Meetings. Special meetings of the Board of Directors may be called by or at the request of the President or any two (2) Directors. The person or persons calling such meetings shall fix any time or place, within the State of Wisconsin, for holding any special meeting of the Board of Directors.

Section 7. Removal of Members of the Board of Directors. Any Director, except for a Director appointed by the Declarant, may be removed from office either with or without cause, by the affirmative vote of seventy-five percent (75%) of eligible votes to be cast taken at a special meeting of Directors called for that purpose.

Section 8. Incapacity or Death of a Director. If a Director shall be incapacitated to the extent he is unable to perform his duties as a Director or if a Director dies during his term as a Director, then a new Director shall be chosen as provided for in Section 9 of this Article.

Section 9. Vacancies. Any vacancy occurring in the Board of Directors may be filled until the next succeeding annual election by the affirmative vote of a Majority of the Directors then in office, although less than a quorum of the Board of Directors.

Section 10. Notice of Meeting. Notice of a regular meeting shall be given at least ten (10) business days prior to the date thereof and notice of any special meeting shall be given at least three (3) days prior to the time thereof. Notices may be given orally or by written notice delivered personally, mailed by United States Mail or by Federal Express, sent by e-mail, or some other similar form of commercial delivery system or sent by facsimile machine to each Director at his last known address. If mailed, a notice shall be deemed to be delivered when deposited in the United States Mail or when deposited with a Federal Express agent or some other agent of a similar form of commercial delivery system so addressed with postage thereon prepaid. If notice is given by e-mail,

such notice shall be deemed to be delivered when the e-mail is sent to the e-mail address listed on the Membership Roster. Whenever any notice is required to be given to any Directors of the Association under the provisions of these Bylaws or under the provisions of the Articles of Incorporation or under the provisions of any statute, a waiver thereof in writing, signed at any time, whether before or after the time of meeting, by the Director entitled to such notice, shall be deemed equivalent to the giving of such notice. The attendance of a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends a meeting and objects thereafter to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Board of Directors need be specified in the notice or waiver of notice of such meeting.

Section 11. Telephone Meetings. The Board of Directors may conduct its meetings by means of a conference telephone or similar communication equipment if all persons participating in such meeting can hear and talk to each other at the same time. Such participation shall constitute presence in person at any such meeting.

Section 12. Quorum. A Majority of the Directors then in office shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but though less than a quorum is present at a meeting a Majority of the Directors present may adjourn the meeting from time to time without further notice.

Section 13. Manner of Acting. The act of the Majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by these Bylaws or by law.

Section 14. Compensation. The Board of Directors, by affirmative vote of a majority of the Directors then in office, and irrespective of any personal interest of any of its Members or the fact that they may also be Officers, may establish reasonable compensation of all Directors for services rendered to the Association as Directors or otherwise, or may delegate such authority to an appropriate committee.

Section 15. Presumption of Assent. A Director of the Association who is present at a meeting of the Board of Directors or a committee thereof at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Association within twenty-four (24) hours after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of such action.

Section 16. Informal Action. Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Directors or Members of such committee.

Section 17. Committees. The Board of Directors may appoint and dismiss committees made up of Owners as the Board of Directors from time to time deems desirable to assist in the administration or operation or affairs of the Association.

## Article V. Officers

Section 1. Principal Officers. The principal officers of the Association shall be a President, one (1) or more Vice Presidents, a Secretary and a Treasurer, each of whom shall be elected by the Board of Directors. Such other officers and assistant officers as may be deemed necessary shall be elected by the Board of Directors. Any two (2) or more offices may be held by the same person, except the offices of President and Secretary and President and Vice President.

Section 2. Election and Terms of Office. The Officers shall be elected by the Board of Directors at its annual meeting. If the election of Officers shall not be held at such meeting, such election shall be held as soon thereafter as conveniently may be. Each Officer shall hold office until the next annual meeting of the Board of Directors or until his successor is duly elected and qualified unless sooner terminated by his death, resignation or removal.

Section 3. Removal. Any Officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interest of the Association will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment shall not of itself create contract rights.

Section 4. Vacancies. A vacancy in any principal office shall be filed by the Board of Directors for the unexpired portion of the term.

Section 5. President. The President shall be the Principal Executive Officer of the Association and, subject to the control of the Association, shall in general supervise and control all of the business and affairs of the Association. He shall, when present, preside at all meetings of the Association. He may sign, with the Secretary or any other Officer of the Association authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws or some other law to be otherwise signed or executed. In general, the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

Section 6. Vice President. In the absence of the President or in the event of his death or inability to act, the Vice President or if there shall be more than one (1), the Vice Presidents in the order determined by the Board of Directors, shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President or Vice Presidents, as the case may be, shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe.

Section 7. Secretary. The Secretary shall: (a) keep any minutes of the Board of Directors meetings in one (1) or more books provided for that purpose; (b) see that all notices are duly given;

(c) be custodian of the corporate books and records of the Association; (d) count all votes at any meeting of the Association; and, (e) in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 8. Treasurer. If required by the Board of Directors, the Treasurer shall at the expense of the Association obtain a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. He shall: (a) have charge and custody of and be responsible for all funds and securities of the Association; (b) receive and give receipts for monies due and payable to the Association from any source whatsoever; (c) deposit all monies in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these Bylaws; and (d) in general, perform all of the duties as from time to time may be assigned to him by the President or by the Board of Directors.

Section 9. Salaries. Officers shall ordinarily serve without compensation, but in unusual circumstances the Board of Directors may approve salaries for the Officers. No officer shall be prevented from receiving any salary by reason of the fact that he is also a Director of the Association.

Section 10. Qualifications. All Officers shall be Owners, except for the Officers selected by the Board of Directors when controlled by Directors designated by the Declarant.

## Article VI. Indemnification

Section 1. Definitions Relating to Indemnification. For the purposes of this Article VI, the following terms shall have the meanings ascribed to them in this Section:

(a) "Director" or "Officer" shall mean any of the following:

(i) a natural person who is or was a Director or Officer of the Association;

(ii) a natural person who, while a Director or Officer of the Association, is or was serving at the Association's request as a Director, Officer, partner, trustee, member of any governing or decision-making committee, employee or agent of another corporation or foreign corporation, partnership, joint venture, trust or other enterprise;

(iii) a natural person who, while a Director or Officer of the Association, is or was serving an employee benefit plan because his duties to the Association also imposed duties on, or otherwise involved services by, the person to the plan or to participants in or beneficiaries of the plan; and

(iv) unless the context requires otherwise, the estate or personal representative of a Director or Officer.

(b) "Expenses" shall include fees, costs, charges, disbursements, attorney fees and any other expenses incurred in connection with a proceeding.

(c) "Liability" or "liable" shall include the obligation to pay a judgment, settlement, penalty, assessment, forfeiture or fine, including any excise tax assessed with respect to an employee benefit plan, and reasonable expenses.

(d) "Party" shall mean a natural person who was or is, or who is threatened to be made, a named defendant or respondent in a proceeding.

(e) "Proceeding" shall mean any threatened, pending or completed civil, criminal, administrative or investigative action, suit, arbitration or other proceeding, whether formal or informal, which involves foreign, federal, state or local law and which is brought by or in the right of the Association or by any other person.

Section 2. Indemnification. No Director or Officer shall be liable, responsible, or accountable in damages or otherwise to the Association for any act or omission pursuant to the authority granted to the Director or Officer by these Bylaws if the Director or Officer acted in good faith and in a manner he or she reasonably believed to be within the scope of the authority granted to him or her by these Bylaws and in the best interests, or not opposed to the best interests, of the Association, provided that the Director or Officer shall not be relieved of liability in respect of any claim, issue, or matter as to which the Director or Officer shall have been finally adjudicated to have violated any provision in Chapter 181 of the Wisconsin Statutes. Subject to this limitation in the case of any such judgment of liability, the Association shall indemnify and allow expenses to the Director or Officer to the fullest extent permitted or required by Chapter 181 of the Wisconsin Statutes.

Section 3. Contract. The assumption by a person of a term of office as a Director or Officer of the Association or, at the request of the Association, as a Director or Officer of another corporation, partnership, joint venture, trust or other enterprise, and the continuance in office or service of those persons who are any such Directors or Officers as of the adoption of this Article VI, shall constitute a contract between such person and the Association entitling him during such term of office or service to all of the rights and privileges of indemnification afforded by this Article VI as in effect as of the date of his assumption or continuance in such term of office or service, but such contract shall not prevent, and shall be subject to modification by, amendment of this Article VI at any time prior to receipt by the Association of actual notice of a claim giving rise to any such person's entitlement to indemnification hereunder.

Section 4. Effect of Invalidity. The invalidity or unenforceability of any provision of this Article VI shall not affect the validity or enforceability of any other provision of this Article VI or of these Bylaws.

## Article VII. Assessments

Section 1. Fiscal Year. The fiscal year of the Association shall commence on January 1 of each year (except that the first fiscal year shall commence upon the recording of the Declaration) and terminate on December 31 of such year unless otherwise determined by the Board of Directors.

Section 2. Preparation of Budget. The Association shall also have the power to levy an annual assessment against each Lot in the Subdivision. Such annual assessment shall be levied by the Association as of January 1 of each year and a statement for such amount shall be mailed to the owner of each Lot as of such date and shall be payable on or before March 1 of each year. The Association shall annually adopt a Budget ("**Budget**") of common expenses (including expenses for the Preserve) and levy assessments on the then existing Lots allocating such assessments equally to each Lot, subject to the limitations herein. The Budget shall include amounts representing assessments that are bad debts, and may but need not include a replacement reserve, which in each case shall constitute part of the general assessments. The Association may delegate authority to assess and collect any assessments to a third party. The Association may also levy (a) special assessments on all Lots for any purpose for which a general assessment or special assessment may be levied, or (b) fines on particular Owners for the purpose of collecting any amounts due the Association or enforcing compliance by such Owners with any provision of the Declaration, these Bylaws or any Rules. The Board may adopt a Rule to impose uniform charges for services which the Association provides related to transfer of Lots, review of proposals and the like. The Board may adopt an initial Budget showing the anticipated amounts necessary to cover common expenses.

Section 3. Penalty and Default in Payment. If any payment for any assessment is not received by the Association within ten (10) days after the date such payment is due, a late payment penalty equal to twelve percent (12%) of the entire assessment shall be assessed against the Lot. In addition, the Board of Directors shall have the right and duty to attempt to recover such assessments, together with interest thereon, and the expenses of the proceedings, including attorneys' fees, in an action brought against such Owner, and/or by foreclosure of the lien on such Lot granted by Wis. Stat. § 779.70. The Association or the Board of Directors, acting on behalf of all Owners, shall have power to purchase such Lot at the foreclosure sale and to acquire, hold, lease, mortgage, convey, vote the votes appurtenant to, or otherwise deal with the same after such purchase. A suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing the same. The Board of Directors shall also have the right to prohibit such Owner from voting at a meeting of the Association, utilizing the Preserve, or serving on the Board of Directors, if the Association has recorded a statement of lien on such Lot and the amount necessary to release the lien has not been paid at the time of the meeting.

Section 4. Books and Accounts. The Treasurer shall keep the books and accounts of the Association in accordance with generally accepted accounting practices. The books and accounts of the Association shall be available for examination by the Owners and contract purchasers, and/or their duly authorized agents or attorneys, and to the holder of any Mortgage, and/or its duly authorized agents or attorneys, during normal business hours.

## Article VIII. Rules and Regulations

Section 1. Rules and Regulations. In addition to any Rules and Regulations initially promulgated by the Declarant, the Board of Directors may enact Rules and Regulations for the use, repair and maintenance of Common Areas (including the Preserve) and of Lots, provided, that such Rules and Regulations are not contrary to or inconsistent with the Declaration or applicable law. Copies of and changes to the Rules and Regulations shall be furnished by the Board of Directors to each Owner prior to the time when the same shall become effective.

Section 2. Enforcement. The Rules and Regulations in effect from time to time shall be enforced by such means as the Association deems necessary and appropriate, including recourse to civil authorities, court action if necessary, and monetary fines of not less than Twenty-Five and 00/100 Dollars ($25.00) per day per violation, nor more than One Hundred and 00/100 Dollars ($100.00) per day per violation.

## Article IX. Insurance

Section 1. Directors and Officers Liability. The Board may obtain and maintain, in a reasonable amount, Directors' and Officers' Liability Insurance coverage to protect against wrongful and dishonest acts on the part of the officers, Directors, employees and other agents of the Association, including the Managing Agent, who either handle or are responsible for handling the funds held or administered by the Association.

Section 2. Commercial General Liability and Other Insurance. The Board may obtain and maintain, in a reasonable amount as determined by the Board, Commercial General Liability Insurance coverage on the Common Areas or such other insurance coverages as may be deemed reasonable and necessary by the Board from time to time.

## Article X. Compliance and Default

Section 1. Owners. All Owners shall be governed by and shall comply with the provisions of the Declaration, these Bylaws and the Rules and Regulations, as any of the same may be amended from time to time. A default by an Owner shall entitle the Association or an aggrieved Owner to the relief as provided in this Article X.

Section 2. Fines. The Board of Directors may establish and assess fines against Owners for every violation of the Declaration, these Bylaws and the Rules and Regulations by the Owner, his family members, guests, invitees, employees and/or agents. If an Owner requests in writing a hearing before the fine is imposed, the imposition of the fine shall be suspended until hearing before the Board of Directors is held. Fines are special assessments and shall be collectible as such. In any proceeding arising out of any alleged violation by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding, and such reasonable attorneys' fees as may be determined by the court.

Section 3. Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

## Article XI. Amendments

Section 1. Amendments. These Bylaws may be altered, amended or repealed and new Bylaws adopted by the Members, at a meeting called for such purpose, by an affirmative vote of Members to which at least sixty percent (60%) of the votes in the Association appertain. The amendment shall be effective when it is duly adopted and notice of such amendment is delivered to the Owners.

Section 2. Notices. All notices required under these Bylaws shall be in writing and shall be deemed to have been duly given upon delivery if delivered personally or upon mailing if sent by United States mail, first-class postage prepaid, or otherwise as the Act may require or permit at the following:

(a) if to the Owner, at the address shown on the Membership Roster; and

(b) if to the Association, at the registered office of the Association.

## Article XII. Miscellaneous

Section 1. Invalidity. The invalidity or unenforceability of any portion of these Bylaws shall not affect the validity or enforceability of any other provision of these Bylaws.

Section 2. Captions. The captions and headings of various paragraphs and sections of these Bylaws are for convenience only and are not to be construed as defining or limiting the scope or intent of the provisions thereof.

Section 3. Internal Revenue Code. Notwithstanding anything herein contained to the contrary, no action shall be required or permitted to be taken under these Bylaws or by the officers or Directors of this Association which would not be permitted to be taken by an organization described in Section 528 of the Internal Revenue Code of 1986, as amended.

Section 4. Number and Gender. Whenever used herein, the singular number shall include the plural, the plural the singular and use of any gender shall include all genders.

Section 5. Defined Terms. Terms defined in the Declaration shall have the same meaning herein unless the context clearly indicates to the contrary.

Section 6. Disposition of Assets Upon Dissolution. Upon dissolution of the Association, any real estate assets of the Association, such as the Preserve, shall be distributed to the then existing Lot Owners on a pro rata basis as tenants in common.

[SIGNATURES TO APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned initial Board of Directors of the corporation have caused these Bylaws to be executed this 10th day of DECEMBER, 2014.

**DIRECTORS:**

Matthew Neumann, President

Kevin Anderson, Vice-President

Wendy Griffin, Secretary

This instrument was drafted by:

Kevin Anderson
Neumann Companies.
N27 W24075 Paul Court, Suite 200
Pewaukee, Wisconsin 53072

STATE OF WISCONSIN )
) ss.
COUNTY OF WAUKESHA )

Personally came before me this 10 day of December, 2014, the above named Matthew Neumann, President of Weyerhaven Homeowners Association, Inc., by its authority, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

WENDY GRIFFIN
Notary Public
State of Wisconsin

Wendy Griffin *Wendy Griffin
Notary Public, State of Wisconsin
My commission: 2/5/17

STATE OF WISCONSIN )
) ss.
COUNTY OF WAUKESHA )

Personally came before me this 10 day of December, 2014, the above named Kevin Anderson, Vice-President of Weyerhaven Homeowners Association, Inc., by its authority, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

WENDY GRIFFIN
Notary Public
State of Wisconsin

Wendy Griffin *Wendy Griffin
Notary Public, State of Wisconsin
My commission: 2/5/17

STATE OF WISCONSIN )
) ss.
COUNTY OF WAUKESHA )

Personally came before me this 10th day of DECEMBER, 2014, the above named Wendy Griffin, Secretary of Weyerhaven Homeowners Association, Inc., by its authority, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

KEVIN A. ANDERSON
NOTARY PUBLIC
STATE OF WISCONSIN

Kevin A. Anderson
Notary Public, State of Wisconsin
My commission: 01/28/18

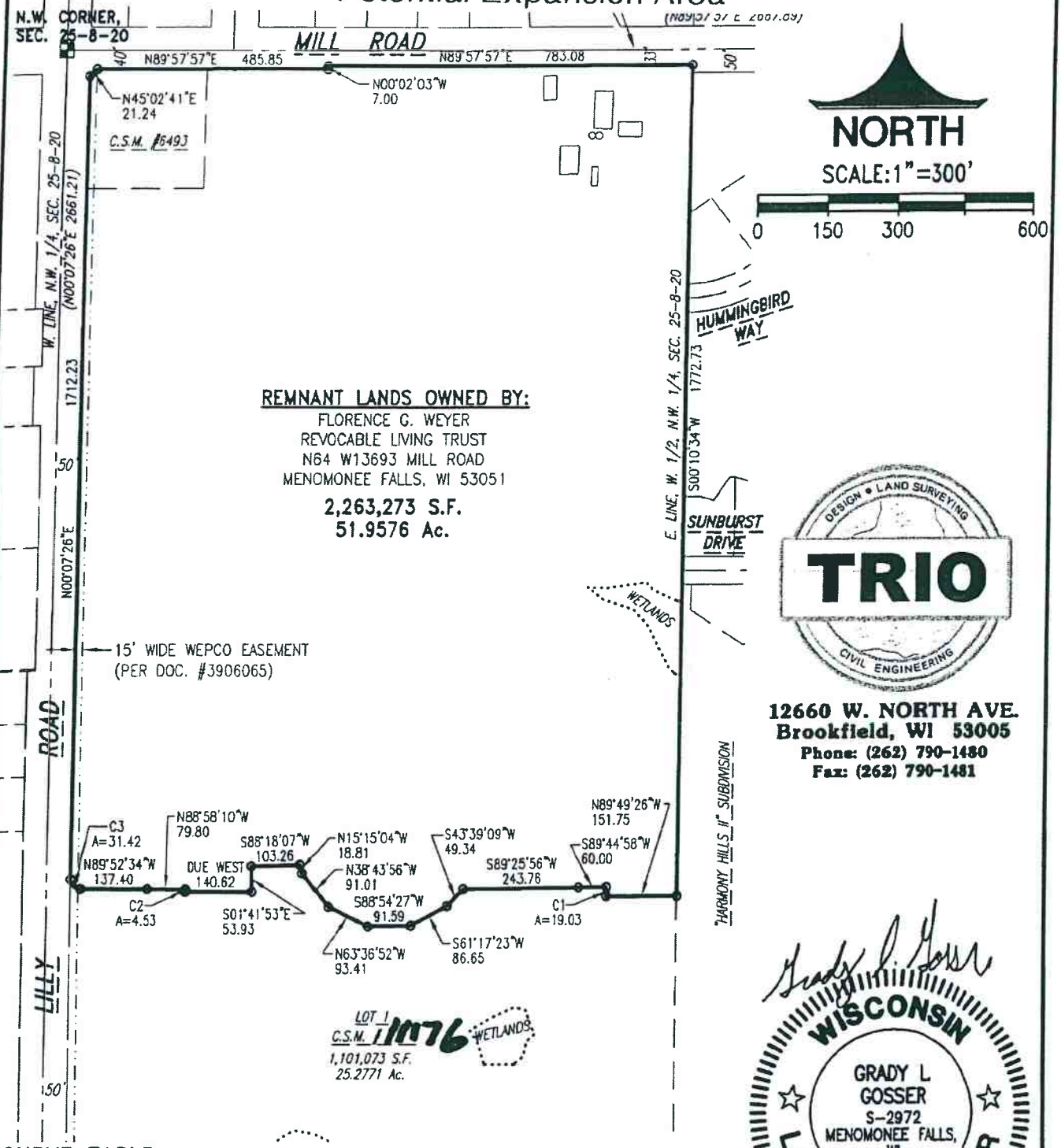
**EXHIBIT A**

Legal Description

All of Lot 1 of CSM 11176 located in all of that part of the Southwest ¼ of the Northwest ¼ of Section 25, Township 8 North, Range 20 East, Village of Menomonee Falls, Waukesha County, Wisconsin.

# EXHIBIT B

## Potential Expansion Area







**REMNANT LANDS OWNED BY:**
FLORENCE G. WEYER
REVOCABLE LIVING TRUST
N64 W13693 MILL ROAD
MENOMONEE FALLS, WI 53051

**2,263,273 S.F.**
**51.9576 Ac.**





**12660 W. NORTH AVE.**
**Brookfield, WI 53005**
**Phone: (262) 790-1480**
**Fax: (262) 790-1481**


## CURVE TABLE:

| NO. | RADIUS | DELTA | ARC | CHORD | CHORD BEARING | TANGENT IN | TANGENT OUT |
|---|---|---|---|---|---|---|---|
| C1 | 1320.00 | 00°49'33" | 19.03 | 19.03 | N00°39'48.5"W | N01°04'35"W | N00°15'02"W |
| C2 | 1780.00 | 00°08'45" | 4.53 | 4.53 | N01°06'12.5"E | N01°10'35"E | N01°01'50"E |
| C3 | 20.00 | 90°00'00" | 31.42 | 28.28 | N44°52'34"W | N89°52'34"W | N00°07'26"E |




THIS EXHIBIT WAS PREPARED BY GRADY L. GOSSER, R.L.S. (S-2972)

DATE: 5-16-14

H:\C800\953\13052-01\Survey\ESMT-EXHIBITS\B&SDEX01-SUPPLEMENTAL MAP.dwg

# Weyerhaven 2020 Budget

| | 2019 Budget | 2019 YTD as of 11/20/19 | 2020 Budget 119 at $600 |
|---|---|---|---|
| **INCOME** | | | |
| 4300 Dues Revenue Received | $ 61,600.00 | $ 60,900.00 | $ 71,400.00 |
| Initial Fee | | $ 6,600.00 | |
| **TOTAL INCOME** | $ 61,600.00 | $ 67,500.00 | $ 71,400.00 |
| | | | |
| **EXPENSES** | | | |
| 6205 Insurance | $ 3,200.00 | $ 3,052.00 | $ 3,200.00 |
| 6220 Office supply/mailings | $ 520.00 | $ 246.44 | $ 500.00 |
| 6230 Electrical | $ 3,000.00 | $ 3,604.89 | $ 4,000.00 |
| 6240 Natural Gas | $ 1,500.00 | $ - | $ - |
| 6260 Landscape Maintenance | $ 7,000.00 | $ 19,238.58 | $ 14,600.00 |
| 6300 Management | $ 4,080.00 | $ 4,818.00 | $ 5,250.00 |
| 6310 Snow Removal | $ 5,000.00 | $ 8,321.50 | $ 9,500.00 |
| 6430 Water & Sewer | $ 1,200.00 | $ 2,572.83 | $ 2,500.00 |
| 6431 Phone/ Internet/TV | $ 2,800.00 | $ 2,742.61 | $ 2,800.00 |
| 6432 Clubhouse Cleaning Service | $ 4,800.00 | $ 3,668.04 | $ 4,000.00 |
| 6433 Cleaning Supplies | $ 300.00 | $ 55.17 | $ 300.00 |
| 6435 Daily Pool Inspection | $ 12,000.00 | $ 15,081.27 | $ 10,000.00 |
| 6440 Pool Chemicals | $ 2,000.00 | $ 1,095.27 | $ 2,000.00 |
| 6450 Pool Startup & Winterizing | $ 1,900.00 | $ 776.71 | $ 1,900.00 |
| 6451 Pool/Clubhouse Build Maint. | $ 8,000.00 | $ 5,417.80 | $ 6,000.00 |
| Irrigation Maintenance | $ 250.00 | $ 313.50 | $ 300.00 |
| 6454 Bookkeeping/Tax Filing | $ 250.00 | $ 219.00 | $ 250.00 |
| 7810 Reserve Contribution | $ 2,800.00 | $ 2,333.30 | $ 2,800.00 |
| Holiday/Block Party | $ 1,000.00 | $ 874.99 | $ 1,500.00 |
| **TOTAL EXPENSES** | $ 61,600.00 | $ 74,431.90 | $ 71,400.00 |