AMENDMENT NO. 1 TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HAWK'S MEADOW

DOCUMENT TITLE

DOCUMENT NO.

4094128

REGISTER OF DEEDS
WAUKESHA COUNTY, WI
RECORDED ON

August 11, 2014 02:46 PM
James R Behrend
Register of Deeds

6 PGS
TOTAL FEE:$30.00
TRANS FEE:$0.00

Book Page -

RECORDING AREA

NAME AND RETURN ADDRESS

George B. Erwin, III
Schmidt, Darling & Erwin
2300 North Mayfair Road
Suite 1175
Milwaukee, WI 53226

Parcel Identification Number

pd 30/0

AMENDMENT NO. 1 TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HAWK'S MEADOW

This Amendment No. 1 to Declaration of Covenants, Conditions and Restrictions of Hawk's Meadow ("Amendment") is made and entered into by Hawk's Meadow, LLC ("Declarant") as owner and successor in interest to the property legally described on the attached Exhibit A ("Property").

WHEREAS, Declarant has previously entered into a Declaration of Covenants, Conditions and Restrictions of Hawk's Meadow record in the Waukesha County Register of Deeds Office on September 24, 2007, as Document No. 3515226 ("Declaration"); and

WHEREAS, Declarant specifically reserved under the Declaration at Section 2.6.7 the right to bring the Expansion Property within and subject to the Declaration which property is described on the attached Exhibit B ("Expansion Property"); and

WHEREAS, by this Amendment Declarant intends to subject such Expansion Property to the Declaration and to further amend the Declaration to clarify and confirm the imposition of these Declarations on such Expansion Property.

NOW, THEREFORE, in accordance with the Declaration, the Declaration is amended as follows:

1. Section 1.7, Common Areas, is modified to include as Common Areas those lot areas identified on Hawk's Meadow Addition No. 1 which are identified as Outlot 4.

2. Section 1.20, Plat, for purposes of the Declaration shall consist of the Plat previously recorded in the Register of Deeds Office for Waukesha County for Hawk's Meadow, together with the Expansion Property known as Hawk's Meadow Addition No. 1 ("Plat"). Such properties are collectively identified on Exhibit A and Exhibit B respectively.

3. Section 1.24, Subdivision, is modified to read as follows: "Subdivision shall mean all of Lots 1 through 41 as shown on the Plat all of which are made subject to this Declaration, together with Outlots 1, 2, & 4 thereof."

4. Section 6.6.7 is added to read as follows:

> "Declarant and the City have agreed to a certain Storm Water Management Plan. In the event of a conflict between any Drawings and such Storm Water Management Plan, the Storm Water Management Plan shall control. Declarant and the Association shall each have the right to enter upon Lots 35-41 at any time for the purpose of inspection, maintenance, correction of any drainage condition, and the Lot Owner(s) shall be responsible for the cost thereof. Prior to undertaking any such work, Declarant and/or the City shall identify by written notice to the Lot Owner(s) any required maintenance or corrective action to be taken. If the Lot Owner(s) fails to correct within fifteen (15) days of such written

notice, then the Declarant and/or the City shall have the right to undertake such work, and shall have the right to access for such purposes consistent with the procedures, rights and responsibilities outlined in Section 4.3 hereof. Such right shall include the right to enforce the collection of any cost or expenses incurred by the City by assessing the Lot Owner(s) on the next succeeding tax bill as an unpaid special charge in accordance with Chapter 66 of the Wisconsin Statutes, as amended from time to time.

5. **Required Consent.** The Association acting by and through its President certifies that at least fifty percent (50%) or more of the total votes of the Association members have approved this Amendment pursuant to the requirements of Section 8.1 of the Declaration.

IN WITNESS WHEREOF, the Declarant has caused this Amendment to be executed as of the date and year set forth above.

HAWK'S MEADOW HOMEOWNERS ASSOCIATION, INC.

By: _____
Its President

ACKNOWLEDGEMENT

STATE OF WISCONSIN)
) ss.
WAUKESHA COUNTY)

Personally came before me this 11th day of August, 2014, the above named Brandon V. Bergman, President of Hawk's Meadow Homeowners Association, Inc., to me known to be the person who executed the foregoing instrument and acknowledged the same.

Ellen M. Mueller
Notary Public, State of Wisconsin
My Commission 10-12-14

ELLEN M. MUELLER NOTARY PUBLIC STATE OF WISCONSIN

HAWK'S MEADOW, LLC, and
HAWK'S MEADOW 2, LLC

By: _____
Brandon Bergman, Managing Member

STATE OF WISCONSIN)
) ss.
WAUKESHA COUNTY)

Personally came before me this 11th day of August, 2014, the above named Brandon Bergman, Managing Member Hawk's Meadow, LLC and Hawk's Meadow 2, LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.



Ellen M. Mueller
Notary Public, State of Wisconsin
My Commission 10-12-14

Drafted by and After
Recording Return to:
George B. Erwin, III
2300 North Mayfair Road, Suite 1175
Milwaukee, WI 53226

EXHIBIT A
Original Property

Lot 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and Outlot 1 and Outlot 2 of HAWK'S MEADOW, being all of Outlot 1, C.S.M. No. 8185, part of Outlot 1 of C.S.M. No. 8790, and unplatted land in the Southwest ¼ of the Southwest ¼ of Section 14 and part of the Northwest ¼ of the Northwest ¼ of Section 23, all being in Town 7 North, Range 19 East, in the City of Pewaukee, Waukesha County, Wisconsin.

EXHIBIT B
Expansion Property

Lot 28 of Hawk's Meadow, being a part of the Southwest ¼ of the Southwest ¼ of Section 14, Town 7 North, Range 19 East, in the City of Pewaukee, Waukesha County, Wisconsin.

Also known as Lots 28-41 and Outlot 4 of Hawk's Meadow Addition No. 1.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HAWK'S MEADOW

Document Number

Document Title

3515226

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

09-24-2007 1:06 PM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE:	52.00
REC. FEE-CO:	5.00
REC. FEE-ST:	2.00
TRAN. FEE:	
TRAN. FEE-STATE:	
PAGES:	25

Recording Area

Name and Return Address

GEORGE B. ERWIN, III
SCHMIDT, DARLING & ERWIN
2300 NORTH MAYFAIR ROAD
SUITE 1175
WAUWATOSA, WI 53226

Parcel Identification Number (PIN)

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document. Note: Use of this cover page adds one page to your document and $2.00 to the recording fee. Wisconsin Statutes, 59.43(2m) WRDA 2/99

215-32 (2/99)

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF HAWK'S MEADOW

This Declaration of Covenants, Conditions and Restrictions of Hawk's Meadow (this "Declaration") is made and entered into by Hawk's Meadow, LLC ("Declarant").

Recitals

Declarant owns certain real property, 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, as described on Exhibit A only, 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.

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 Exhibit A 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.

Although the Declarant is implementing this declaration with the intentions set forth above, the Declarant makes no assurance, representation or guaranty that the intentions of these covenants shall be achieved, or as to the ultimate value of lots in the Subdivision, or as to any stability or increase in value as a result of the imposition of this Declaration.

ARTICLE 1: DEFINITIONS

The following terms shall have the assigned definitions:

1.1 **Association.** The "Association" shall mean Hawk's Meadow Homeowner's Association, Inc., the members of which shall be all Owners of single family Lots and such additional property Declarant elects to make subject to this Declaration in the Subdivision.

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

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

1.4 **Building.** A "Building" shall be any freestanding structure located in the Subdivision.

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

1.6 **City.** "City" shall mean the City of Pewaukee, Wisconsin, and its successors.

1.7 **Common Areas.** The "Common Areas" shall consist of those areas identified and/or located on the Plat and set aside either as open space, Drainage Areas for storm water management purposes ("Storm Water Management Areas") and any landscape features constructed by Declarant all collectively known as Common Improvements. Generally such areas are known at Outlots 1 through 2 inclusive.

1.8 **Common Improvements.** The "Common Improvements" consist of the following, some of which may be located in Common Areas and some of which may be located in public streets, individual lots, on adjacent outlots; all signs on the Property generally identifying the Subdivision as Hawk's Meadow Subdivision, and any fencing, landscape features, walking trails, drainage ways and easements, Storm Water Management Areas, Buildings or other improvements made by the Association in the Common Areas or elsewhere.

1.9 **Declarant.** The "Declarant" shall mean Hawk's Meadow, LLC and the successors and assigns of Declarant pursuant to assignment in accordance with Section 13.7 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 defined in Section 6.1.2.

1.13 **Hawk's Meadow Documents.** "Hawk's Meadow Documents" shall consist of this Declaration, Articles of Incorporation of the Association and the Bylaws of the Association.

1.14 **In-Ground Pool.** "Pool" shall mean a concrete or vinyl lined pool built below grade and into the ground and surrounded by dirt.

1.15 **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.

1.16 **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.

1.17 **Mortgagee.** "Mortgagee" shall mean the holder of a Mortgage, if any.

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

1.19 **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. The City is not an Owner.

1.20 **Plat.** A "Plat" is the plat of the Property as recorded in the Register's Office.

1.21 **Property.** The "Property" shall mean the real estate subject to this Declaration which is described only on Exhibit A.

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 **Subdivision.** "Subdivision" shall mean all of Lots 1 through 27 as shown on the Plat and which are made subject to this Declaration, together with Outlots 1 and 2 thereof.

ARTICLE 2: ASSOCIATION OF OWNERS

2.1 **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 maintenance of the Common Areas, the provisions of this Declaration and the Bylaws, the Rules, and all other uses of and restrictions on the Exhibit A property. Until the establishment of the Association, all powers of the Association shall be exercised by Declarant.

2.2 **Membership and Voting.** 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 3 of this Declaration.

2.3 **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) Ninety (90) days after the conveyance by Declarant to purchasers of all of the Lots; or (3) Declarant's election to waive its rights to control.

2.4 **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) days notice without payment of any penalty.

2.5 **Approval.** Any proposal by an Owner requiring Board approval shall be submitted in writing in such detail and with such supporting documents as the Board may require to facilitate its understanding and review. The Board may approve or disapprove any proposal submitted by an Owner after considering one or more of the following concerns and any additional concerns as the Board deems prudent: (1) freedom and safety of access and convenience to other areas of the Exhibit A property; (2) the costs to be paid by the Owner for restoration of Common Areas and Common Improvements to their prior physical condition upon the completion of work or use contemplated by the proposal, and (3) a fair and reasonable monthly charge to be paid by the Owner to the Association for any encroachment on any Common Areas resulting from the proposal. The Board may at its discretion impose further conditions upon its consent to any proposal as it deems appropriate, including payment of out of pocket charges for professional advice and a standard review fee. Approval of a proposal shall be deemed given if the Association president indicates approval in writing. Proposals to affect the Common Areas or Common Improvements require approval of the Board, not the ACC. If the result of a proposal would be to cause an encroachment on any public street or utility, or any easement area or would affect the storm water drainage system, the prior express written consent of the City is required.

2.6 **Ownership of Common Areas.** Each Owner of a Lot shall own an equal proportional interest in the Common Areas to be held by the Owners as tenants in common, subject to the following incidences:

2.6.1 By each initial conveyance of a Lot to an Owner, each Owner shall obtain an equal proportional interest in the Common Areas. Each Owner, on its own behalf and on behalf of its successors and assigns, by acceptance of a deed or other transfer of a Lot, waives any and all right that the Owner might now or hereafter have to maintain any action or petition for partition with respect to the Owner's interest in the Common Areas or to compel any sale by action at law or in equity. No Owner shall sever its interest in the Common Areas from its ownership of its Lot.

2.6.2 The Declarant and the Owners hereby appoint the Association as the "agent" for the administration of the Common Areas, with the complete authority over the Common Areas as described herein. The Association shall not have the right to sell, mortgage or lease any or all of the Common Areas except if approved by the Owners as an amendment hereto under Article 8.

2.6.3 The appointment of the Association as the agent for the Common Areas is not intended to create any other agency, joint venture or partnership relationship among the Owners or between the Association and the Owners. No Owner shall have fiduciary duties to another by virtue of the tenancy-in-common interest in the Common Areas. The Association shall not have any duties as a partner, or the like, including but not limited to income tax reporting to the Owners.

2.6.4 The rights of the Association, as agent, and the Owners as to the Common Areas shall not be affected by federal or state bankruptcy or insolvency proceedings, or analogous proceedings for creditor or debtor relief, against any one individual Owner.

2.6.5 Declarant is advised that each Owner's interest in the Common Areas may be assessed and taxed for real estate tax purposes. Declarant makes no assurance that taxes will be levied in this manner. If any one Owner fails to pay taxes as and when due with respect to such Owner's interest in one or more of the Common Areas, then the Association may, but is not obligated to, pay such amount and levy a special assessment in such amount on such Owner.

2.6.6 Appointment of the Association as agent shall not be rescinded or limited unless the appointment is rescinded or limited by an amendment to this Declaration in accordance with Article 8.

2.6.7 In the event the Declarant elects to bring additional property including Lot 28 to be made subject to these Declarations, ownership of Common Areas shall be adjusted to be proportionate to the number of units created thereby. Units for purposes of this provision shall be either single family lots, duplex lots or condominium units as ultimately built.

ARTICLE 3: ASSESSMENTS

3.1 **Budget and Assessments.** 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 a replacement reserve, which shall constitute part of the general assessments. The Association may also levy (a) special assessments on all Lots for any purpose for which a general 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 proposal under Section 2.5, and the like. The Board may adopt an initial budget showing the anticipated amounts necessary to cover common expenses.

3.2 **Installments; Late Payments.** General assessments shall be levied on an annual basis but shall be due and payable as determined by the Board from time to time. Special assessments shall be due and payable at such time and in such manner as the Board may

determine. Any assessment or installment of an assessment not paid within ten (10) days of its due date may be subject to a late charge and/or interest as set forth in the Bylaws or in a Rule.

3.3 **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 attorney's fees. 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 2.2, an Owner delinquent in payments may in some cases not be permitted to vote on matters before the membership of the Association.

3.4 **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.

3.5 **Payment of Assessments by Declarant.** Declarant has made a contribution of $2,500 to the Association in lieu of all assessments (present or in the future) which might otherwise be imposed on Declarant's Lots. The Association shall have no power to levy assessments against Declarant, Outlot 3, or Lots for which Declarant is the Owner.

3.6 **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 4: MAINTENANCE AND ALTERATIONS

4.1 **Owner Responsibility.**

4.1.1 **Common Areas/Common Improvements.** Each Owner shall reimburse the Association for the cost of the Association's repair and/or replacement of any portion of the Common Areas or Common Improvements 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.

4.2 **Association Responsibility.** The Association shall maintain in good condition and repair, replace and operate all of the Common Areas and Common Improvements, including landscaping, trees and plantings in the Common Areas and trimming of such trees for site lines.

4.3 **Detention and Retention Basins.** Located within the plat of Hawk's Meadow are certain areas designed for detention and retention of storm water. The primary responsibility to maintain such detention and retention basins is the Homeowners Association. The City may, but is not obligated, to remedy any maintenance deficiency concerning such storm water facilities. Should it become necessary for the City to maintain such storm water facilities, the City may assess a special charge. Prior to the City undertaking any corrective action, the City shall first determine that a deficiency exists and notify the Owner and the Association of the deficiency. The notice shall specify the time in which to rectify the deficiency and if the deficiency is not rectified within the time period, the City shall have the right to enter upon the property using its own employees and equipment or contracting others for such work directed by the condition. The cost of such work shall be billed to either the responsible party or the Association as determined by the City. The City shall have the right to enforce the collection of such amounts as assessed by extending same on the respective party's current or next succeeding tax bill as an unpaid special charge in accordance with Chapter 66 of the Wisconsin Statutes, as amended from time to time, against the responsible party, or as to the Association apportioning such charge equally among the Association owners.

4.4 **Butler's Garter Snake Conservation Area.** Located within the Plat of Hawk's Meadow is a certain area designated as Butler's Garter Snake Conservation Area per WIDNR. Use of this area is limited to passive uses including walking and are subject to applicable regulation including those promulgated by the Wisconsin Department of Natural Resources. The Association is responsible for the care and maintenance of this area.

4.5 **Tree Line Preservation Areas.** The established tree lines contained on Lots or Common Areas will be preserved to screen the Property from adjacent parcels. At no time shall the tree lines be removed, materially altered, or impinged without written Approval from the Association. The Association may enter a Lot to replace any tree which has been removed, altered, or impinged w and levy an assessment against those Lot owners responsible for the cost and expense of doing so.

ARTICLE 5: RESTRICTIONS ON USE AND OCCUPANCY

5.1 **Permitted Uses.** Each Lot shall be occupied and used only for single family residential purposes and for no other purpose. 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. 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.

5.2 **Vehicles.**

(a) No outdoor parking of vehicles shall be permitted on the Lots, without the express prior consent of the Board, and, except for parking as necessary in connection with the construction or reconstruction of a residence on a Lot. No person shall occupy, park or otherwise use a vehicle so as to block access to a Lot. Storage of trailers, campers, camping trucks, boats or other marine craft, horse or boat trailers, motorcycles, mopeds, motorized bicycles, vehicles licensed as recreational vehicles, snowmobiles, all-terrain vehicles, inoperative or unlicensed vehicles or the like shall not be permitted on a Lot, except in a garage. No vehicle maintenance or lubrication shall be permitted anywhere in the Subdivision except washing of cars in driveways or maintenance performed within a garage.

(b) Notwithstanding subsection (a), no commercial vehicles shall be parked in driveways in the Subdivision, except commercial vehicles temporarily parked in the ordinary course of business. Commercial vehicles include both vehicles licensed as such and vehicles otherwise licensed but which contain commercial advertising as part of the finish or as an attachment.

5.3 **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. No incineration of waste is permitted on Lots. 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 home shall be stored in the residence or garage, except for a period of 12 hours prior to and following the scheduled garbage pickup. Each Lot Owner shall observe any and all statutes, laws, ordinances or other rules or regulations of governmental entities with jurisdiction over the subdivision respecting the separation and disposal of all rubbish, garbage and waste.

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

5.5 **Quiet Enjoyment.** Each Owner shall have the right to use its Lot in accordance with this Declaration and applicable law, free from unreasonable interference from any other Owner, Occupant and other invitee.

5.6 **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 Hawk's Meadow Documents. By way of example and not limitation, offensive activity shall include excessive amplification of musical instruments and/or audio or audio visual equipment.

5.7 **Signs.** No Owner or Occupant may erect, post or display posters, signs or advertising material at locations within a Building or Lot which are viewable from the public streets 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 6. 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.

5.8 **Environmental Matters.** Each Owner and Occupant shall comply with all applicable governmental or Association statutes, ordinances, regulations or rules 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 Ace ("TOCSA"); Resource Conservation and Recovery Act ("RCRA"); City 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.

5.9 **Building Setbacks.** No improvements shall be located on any lot in a manner which violates any area or setback restrictions required by the City of Pewaukee zoning ordinance. The committee may impose further modifications or restrictions to harmonize and coordinate improvement placements as a condition to approval of submissions.

5.10 **Water Supply.** Each Dwelling shall be connected to the water supply mains of the City of Pewaukee. No individual wells shall be permitted within the Subdivision.

5.11 **Sewage Disposal.** Each Dwelling shall be connected to the City of Pewaukee' sanitary sewer system and no septic tank or individual sewage system shall be permitted within the subdivision.

5.12 **Fences and Walls.** Except as otherwise provided in Section 6.5.8 no fence or wall of any height shall be permitted on any Lot except as a Landscape feature, which must be approved by the ACC. Buried electric or invisible fencing for Pet containment is approved. Chain link, privacy, or fences that enclose an entire yard are prohibited.

5.15 **Storm Water Management Area Liability.** Storm Water Management Areas located on Outlots have been created and are required by the City of Pewaukee to assist in the removal of sediment and detention of storm water in Hawk's Meadow. The Storm Water Management Areas are not intended to be used for swimming or recreational facilities, and any use of the Storm Water Management Areas for such use is strictly prohibited. Any person entering into or using the Storm Water Management Areas for such use is strictly prohibited. Any person entering into or using the Storm Water Management Areas either intentionally or accidentally do so at their own risk. By purchase of a Lot in Hawk's Meadow, each Owner and its respective successors, assigns, heirs and personal representatives thereby waives, to the fullest extent permitted by law, any and all claims for liability against the City of Pewaukee, the Declarant, the Hawk's Meadow Homeowner's Association, and their respective agents, contractors, employees, officers, directors and shareholders, for injury or damage to person or property sustained in or about or resulting from the use or existence of the Storm Water Management Areas. In addition, each Owner to the extent of insurance coverage available (and its successors, assigns, heirs and personal representatives) agrees to indemnify, defend and hold harmless the City of Pewaukee, the Declarant, the Hawk's Meadow Homeowner's Association, and their respective agents, contractors, employees, officers, directors and shareholders, from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature (including attorney's fees), from those arising from any injury or damage to any person (including death) who is their invitee or property damage sustained in or about or resulting from their use or their invitee's use of the Storm Water Management Areas.

ARTICLE 6: ARCHITECTURAL CONTROL

6.1 **Architectural Controls: Restrictions on Development.**

6.1.1 **Architectural Control Committee.** 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 shall be appointed by Declarant. One or more Committee members may delegate their Committee duties to any one or more of the other Committee members. After Declarant conveys to purchasers all of the Lots, then the initial members of the ACC shall resign and the Board shall elect the three (3) members from the group of Owners of 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 above, the Declarant selected initial members of the ACC shall exercise exclusive control in approving the initial home construction and design on each Lot.

6.1.2 **No Development Without Prior Approval.** Prior to:

a) Commencement of construction of any Building or other improvements on any Lot, or
b) The reconstruction of any Building or other improvements on any portion or portions of such Lot following a casualty loss thereto, or
c) The demolition of any Building or other improvements on any portion or portions of such Lot, or
d) The painting, decoration or alteration of the exterior of any Building or other improvement on such Lot, or
e) The installation of an awning, enclosure, screen porch, gazebo, ground mounted flagpole, hot tub, deck, shuffleboard court, children's play set, garden, swimming pool, grading, mailboxes, fixed grill, fences or other landscape features on any such Lot.

The Owner(s) of such Lot shall submit to the ACC for consideration as described below three (3) copies of written information, which shall include a staked out survey of such Lot prepared by, and bearing the seal of, a licensed surveyor, ("Drawings") showing:

(A) The location, size, elevations and type of Building(s) and other improvements, including, but not limited to, homes, garages, retaining walls, rain barrel, and fences or other matters proposed to be erected or reconstructed on such Lot;
(B) Detailed plans and specifications for construction or reconstruction, including building material, type and color samples;
(C) The proposed landscaping (which will be completed within one year following occupancy permit issuance); and
(D) The proposed location and specifications for utilities servicing such improvements.

The survey shall reflect the proposals in A through D, which are appropriate to be shown on the survey. Any of the actions described in clauses (a) through (e) above may be taken (subject to subsection 6.1.3 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 6.1.3 following, unless such time periods are waived by 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 (a) through (e) 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.

6.1.3 **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 (including the timetable therefore), the placement and protection of trees as provided in Section 6.6.2, and such other matters proposed in such Drawings comply with the terms of this Declaration and the City ordinances and otherwise are, in the ACC's sole opinion, in keeping with and do not detract from or depreciate any portion of the Exhibit A 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 twenty 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.

6.1.4 **Prior Approval for Changes.** If after the completion of the improvements to an affected Lot, the Owner thereof desires to construct any additional improvements or to substantially alter the then existing improvements or the grade of the affected Lot, the Owner shall comply with the provisions of subsection 6.1.2 above. A proposed alteration will be deemed substantial if it materially affects the location, size or exterior appearance of the approved improvements.

6.1.5 **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.

6.1.6 **Separate City Approval.** Matters which require approval of the ACC may also require approval of the City. All matters requiring City approval shall first be

submitted to the ACC. Obtaining approval from the ACC and from the City is solely the responsibility of the Owner desiring approval. Approval of Drawings by the ACC shall not be deemed approval by the City and approval by the City shall not be deemed approval by the ACC.

6.1.7 **Uniformity Standards: Waiver.** Certain standards of architectural control are set forth in Sections 6.2 through 6.6 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 waive any such standard which it has adopted or may waive any standard in Sections 6.1, 6.2, 6.4, 6.5 and 6.6. The ACC may in its discretion also permit comparable or superior construction materials as substitutes for those required in this Declaration. Any such waiver or approval must be express and in writing. The ACC may enforce any standard even if it has, expressly or by acquiescence, permitted previous deviations from such standard. Any variance granted hereunder may be conditioned, and may be permanent or time-limited (and if not expressly time-limited will be deemed to be effective for so long as the use of such property is not materially altered). The ACC may waive any standard as above even in the absence of an "unnecessary hardship"; judicially determined standards for granting variances under zoning regulations shall not govern, constitute or be construed as the standards to be applied by the ACC.

6.1.8 **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.

6.2 **Antennas.** Except as otherwise prohibited by FCC rules and regulations, no antenna, aerial, satellite dish or cable for television or radio reception which is greater than 24" 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 City ordinances. All antennas, aerials, and satellite dishes must not be visible from the street side of the home.

6.3 **Minimum Home Size Requirements.**

6.3.1 Only one single-family home may be constructed on each Lot. The following types of homes on Lots shall have the following minimum sizes:

Residence Type	Minimum Size
One story	2,000 square feet
More than one story	2,300 square feet

6.3.2 For purposes hereof, "more than one story" includes homes 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, exposed basement, attic, garage, porch or patio areas in the computation.

6.4 **Garage/Driveway.**

Each residence on a Lot shall have an attached garage for not less than 2 nor more than 3 cars and be connected to the street by a properly hard surface material acceptable to the ACC and installed within six months of occupancy permit issuance, weather permitting. Buyer will be responsible to saw cut out and re-pour all driveway curb openings. Garages must be constructed on the high side of the lot with a preferred side entry feature, unless otherwise approved by the ACC. Overhead garage doors may be wood, steel or fiberglass and must have raised panels. Three car garages must be side entry.

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

6.5.1 If shutters, window casings or window grids and trim features are used on windows or divided-lite windows are used, in any case on the front of a residence, then they shall also be used on the side and rear windows. Window casings of at least six inches in width must be used on all windows without shutters, where possible. Door casings must be at least six inches in width.

6.5.2 A residence shall have a roof made of dimensional fiberglass shingles, in a weatherwood color, with a minimum pitch ratio of 9:12, or such other color or pitch as its specifically approved by the ACC.

6.5.3 **Bay and Boxed Windows.** All bay, bay window, boxed windows and other projections from the home must extend down to the top of the foundation level and have a foundation beneath them. Hung bays or projections are not allowed

6.5.4 **Chimneys.** Chimneys must be constructed of masonry materials on all sides. Chimneys must have a foundation beneath them. Hung chimneys are not allowed.

6.5.5 Exterior walls of residences shall be constructed of brick, stone, cedar, stucco, wood fiber-cement, or other high quality natural material or combinations thereof. No steel vinyl or aluminum siding shall be permitted. Basement or foundation block walls shall not be exposed.

6.5.6 **Masonry.** There is no minimum masonry requirement. When masonry is used on exterior walls, it should terminate at an inside corner, wrap around the corner a minimum of 24", or terminate at the corner board of an outside corner. A balanced amount of masonry is required by the Developer.

6.5.7 Natural wood or fiber-cement shall be used for all exterior trim, including facias, freeze boards, corner boards and all window and door surrounds on Dwelling. Soffits may be made of aluminum, vinyl or other natural material approved in Section 6.5.5. Fascia may only be made of the siding materials permitted for exterior walls as detailed above (not aluminum or vinyl).

6.5.8 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.

6.5.9 On each side of a residence, except for trim, exterior materials shall be consistent on all levels. Color selections, for paint, stone, brick, stucco or other finish must be approved by the ACC.

6.5.10 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, approved by the ACC, consistent with the overall architecture of the residence.

6.5.11 **No above-ground pools shall be installed.** In-ground pools may be installed on a Lot only with approval of the ACC, which will be acting reasonably if it does not approve an in-ground pool which is not completely enclosed by a secure ornamental iron or aluminum fence, minimum 50% open to meet CPSC code and a minimum of 4 foot elevation, with a self-closing and self-latching gate or door (at the top of such gate or door). There must be an unobstructed area of at least 10 feet between the fence and the pool. The pool enclosure cannot be located less than 5 feet from the nearest Lot boundary. Additional conditions may be imposed by the City.

6.5.12 **Lamppost.** Each Lot Owner will be responsible to install a front yard light post and lantern in a style and from a manufacturer selected by Declarant. Each successive Owner shall maintain the front yard light post and lantern in good and working condition and replace such components when necessary with the same or a similar style as approved by the ACC. The light post and lantern must be (1) located three feet back from the front lot line and eight feet from the house side of the driveway, (2) illuminated using 3 - 100 watt white outdoor florescent bulbs; and (3) illuminated from dawn to dusk by means of a photo cell. Prior to occupancy of a residence on a Lot, the Owner shall demonstrate to the ACC that such Light post and lantern is connected to electrical service (paid for by such Owner). No owner shall tamper with such lantern controls.

6.5.13 **Mailbox.** Declarant will purchase and reimburse Declarant for installation of a mailbox and mailbox support in a style and from a manufacturer selected by Declarant. Each successive Owner shall maintain the mailbox and mailbox support in good and working condition and replace it when necessary with the same or a similar style. Location of mailboxes shall be determined by the postmaster.

6.5.14 **Rain Barrel.** Declarant will purchase and install a rain barrel in a style and from a manufacturer selected by Declarant. Each successive Owner shall maintain the rain barrel in good and working condition and replace such components when necessary with the same or a similar style as approved by the ACC. Rain barrel location must be on the rear/back side of the home, not visible from the street.

6.5.15 In making determinations under subsections (6.5.9) and (6.5.10), the ACC will give priority to the goal of achieving uniformity of aesthetics, but without abrogating its right to grant variances or to change its aesthetic scheme from time to time.

6.5.16 Each Owner shall maintain its light post and lantern and mailbox and mailbox post in good condition and working order, and shall cause electrical service to be continued to such lantern. Without limiting the authority of the Association generally, the costs of enforcing the covenants in subsections (6.5.9) and (6.5.10) may be assessed to an offending Owner as a special assessment on such Lot under Article 3.

6.5.17 If Declarant in its discretion, installs any light post, lantern, 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.

6.5.18 All utilities shall be installed underground.

6.5.19 No exterior active solar collectors shall be erected, installed or used unless presented in the Drawings and approved by the ACC.

6.6 **Grading and Landscaping.**

6.6.1 Declarant and the City have agreed to a certain Storm Water Management Plan. In the event of a conflict between any Drawings and such Storm Water Management Plan, the Storm Water Management Plan shall control. 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 is responsible for the cost thereof.

6.6.2 No existing live tree with a diameter of three inches or more, at a height of four feet above the ground shall, without approval of the ACC, be cut down, destroyed, mutilated, moved or disfigured. All such existing trees shall be protected during construction and preserved by wells or islands and proper grading in such manner as shown in approved Drawings.

6.6.3 Following the ACC's review of proposed setbacks, buildings and yard grades, the applicant shall submit the certified plat of survey to the City for its approval or denial.

6.6.4 Final grading of a Lot shall be completed within two months following the date of occupancy permit issuance, weather permitting.

6.6.5 No soil shall be removed by any Lot Owner, 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 within acceptable tolerances to the Master Grading Plan approved by the City.

6.6.6 All exterior landscaping should be completed within one year following occupancy permit issuance.

6.7 **Construction Matters.**

6.7.1 No building or construction materials shall be stored on any Lot outside of Buildings on the Lot, except during periods of actual construction or remodeling, and then only for so long as reasonably necessary and only if kept in a neat manner. Neither Declarant nor the Association is responsible for the security of materials stored on a Lot.

6.7.2 The Owner of the Lot is solely responsible for compliance with all erosion control requirements of the City of Pewaukee, WIDNR, and/or SEWRPC.

6.7.3 During any construction or re-construction, all debris must be stored in containers.

6.7.4 Building must be completed in accordance with the approved construction plans within 12 months of the date the building permit is issued by the City.

6.7.5 Owner is responsible to Developer and/or the City for the cost of repairing and replacing any street pavement, curb, gutter, or improvements which are damaged during the course of construction the Building or improvements on the Owner's Lot.

ARTICLE 7. INSURANCE

7.1 **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, and such other policies and/or coverages as the Board deems necessary or advisable.

7.2 **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.

7.3 **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.

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

7.5 **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.

7.6 **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, (2) anything done or kept on a Lot 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 Associations 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.

7.7 **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 coverages as are excluded from Association Insurance.

ARTICLE 8: AMENDMENT OF DECLARATION

8.1 **General.** Except as otherwise provided herein, prior to the conveyance of all Lots in the Subdivision, this Declaration may be amended only by the Declarant; following the conveyance of all Lots in the Subdivision, then only by at least fifty percent (50%) or more of the total votes of the Association then entitled to vote. Regardless of the manner of adoption, no amendment shall adversely affect any special right or easement reserved to Declarant under this Declaration, or the rights of the City under Article 11, without the express written consent of Declarant, or the City, as the case may be.

8.2 **Procedures.** Following the conveyance of all lots by Declarant, amendments shall be prepared and executed by the president of the Association and shall become effective when recorded in the Register's Office, but only after first obtaining the consent of the City to such amendment. The City shall be deemed to have consented if it fails to act on a written request within 60 days of submission. No action to challenge the validity of an amendment shall be commenced more than one (1) year after the amendment is recorded.

ARTICLE 9. RIGHTS OF DECLARANT

9.1 **Reserved Rights.** Prior to the sale of all Lots by Declarant, Declarant:

9.1.1 May use 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 delegatees 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 sale of Lots or sales of Buildings on Lots may be permitted for a period not to exceed 24 months from the date of issuance of the certificate of occupancy therefore, provided, however, that (a) one a model home is used as a residence for an Occupant, it may not thereafter be used as a "model home"; and (b) construction materials shall not be delivered to or stored at a model home, except for construction of such model home.

9.1.2 Shall have the right to grant easements upon, over, through and across the Lots (limited to the 10 feet area adjacent to each Lot line), which rights shall expire one year after conveyance of a Lot by Declarant, 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, which easements may be granted to itself or its nominee and as may be necessary for excavation and construction of any Buildings.

9.1.3 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.

ARTICLE 10. REMEDIES FOR VIOLATION BY OWNER

10.1 **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 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.

10.2 **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 the 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. Expenses incurred therefore 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 3 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 11. EASEMENTS

11.1 **Right of Entry.** A right of entry to each Lot, 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.

11.2 **Drainage.** An easement is reserved to Declarant, the Association and the City over Lots for the installation of drainage tile, swales, retaining walls, streams or other storm sewer and drainage system elements as shown on the Plat, in any master site grading/storm water plan or in the Storm Water Management Plan approved by the City.

ARTICLE 12. TERMINATION

12.1 **Termination.** This Declaration shall be in effect for a period of 25 years and automatically renewed for successive periods of 10 years each, unless terminated at the end of the original or any extended term by: (a) Declarant (if during the period of Declarant control of the Association), or (b) the written consent of the owners of at least 90% of the aggregate 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. Notwithstanding the above, no such termination shall be effective without the written consent of the City of Pewaukee Common Council.

ARTICLE 13. CONSTRUCTION AND EFFECT

13.1 **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.

13.2 **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.

13.3 **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.

13.4 **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.

13.5 **Remedies.** All remedies herein are cumulative.

13.6 **Waivers.** Whenever a waiver, consent or approval is required or permitted herein, it must be express and in writing; unless expressly provided to the contrary, 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.

13.7 **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.

13.8 **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.

Executed at Waukesha, Wisconsin, on the 21st of September, 2007.

Hawk's Meadow, LLC

By: _____
Managing Member

ACKNOWLEDGMENT

STATE OF WISCONSIN)
) SS.
COUNTY OF WAUKESHA)

Personally came before me this 21st day of September, 2007, the above named Brandon V. Bergman, Managing Member of Hawk's Meadow, LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Subscribed and sworn to before me
this 21st day of September, 2007.

Ellen M. Mueller
Notary Public-State of Wisconsin
My Commission expires 10-10-2010

ELLEN M. MUELLER NOTARY PUBLIC STATE OF WISCONSIN

DRAFTED BY AND AFTER
RECORDING RETURN TO:
George B. Erwin, III
Schmidt, Darling & Erwin
2300 North Mayfair Road
Suite 1175
Wauwatosa, WI 53226

EXHIBIT A

Description of Hawk's Meadow Property

Lot 1,2,3,4,5,6,7,8,9,10,11,12,13,14,15,16,17,18,19,20,21,22,23,24,25,26,27 and Outlot 1 and Outlot 2 of HAWKS'S MADOW, being all of Outlot 1, C.S.M. No. 8185, part of Outlot 1 of C.S.M. No. 8790, and unplatted land in the Southwest l/4 of the Southwest l/4 of Section 14 and part of the Northwest l/4 of the Northwest ¼ of Section 23, all being in Town 7 North, Range 19 East, in the City of Pewaukee, Waukesha County, Wisconsin.