May 19, 2004

DECLARATION OF RESTRICTIONS

WYNDEMERE OF PEWAUKEE, INC.

KNOW ALL MEN BY THESE PRESENTS, That the undersigned Arthur R. Patch, President and Secretary of **WYNDEMERE OF PEWAUKEE, INC.**, being owner of the property known as:

Wyndemere of Pewaukee, being a subdivision in the Southwest 1/4 of the Northwest 1/4 of Section 12, Township 7 North, Range 19 East and the South ½ of the Northwest 1/4 of the Northwest 1/4 of Section 12, Township 7 North, Range 19 East, in the City of Pewaukee, Waukesha County, Wisconsin. Excepting therefrom premises conveyed to Waukesha County Highway per instrument recorded in Volume 1021, Page 355, as Document No. 641769.

Intending to establish a general plan for the use, occupancy, and enjoyment of said subdivision, does hereby declare that all lots therein shall be subject to the following restrictions, which shall remain in force for a period of **FORTY** (40) years from the date of recording thereof, or from the date of recording of any instrument expressly referring to these restrictive covenants.

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

2. No lot shall be used for other than single family residential purposes. All structures shall be designed by a person experienced in residential design or a professional engineer or architect. All buildings shall be completed within the allotted time set up by the City of Pewaukee in its ordinances, or within the period of one (1) year from the start of construction.

3. The size and heights of the buildings shall be as follows:

No dwelling shall exceed two and one-half (2-1/2) stories in height. The minimum building area, exclusive of porches, garages, bays, patios, breeze ways, and similar addition, shall not be less than the following schedule, to-wit:

A. ONE (1) STORY DWELLING ..... 2,400 SQUARE FEET MINIMUM

B. ONE AND ONE-HALF (1-1/2) STORY .... 3,000 SQUARE FEET MINIMUM
C. TWO (2) STORY DWELLING ..... 3,000 SQUARE FEET MINIMUM
D. ONE AND ONE-HALF STORY DWELLING SHALL HAVE AT LEAST 2,000 SQ. FT. OF AREA ON THE FIRST FLOOR LEVEL.

(These restrictions are also subject to the minimum and maximum floor area requirements of the City of Pewaukee.)

The exterior of all structures shall be natural materials: brick, cedar, hardi-plank, stone, or a combination of thereon. All exterior gables directly facing any street shall have a minimum roof pitch of at least 10/12, and the main body of the roof shall not be any less than an 8/12 pitch. Roofing material shall be **minimum** 340 pound dimensional fiberglass shingles (such as ELK PRESTIQUE #1) or cedar shakes, slate, tile or other materials as approved by the Architectural Control Committee. Masonry fireplaces and chimneys are required on the exterior walls and elevations of all dwellings. Each dwelling shall have a minimum of two (2) baths. No garage shall be smaller than 2.5 car or 550 sq. ft. nor larger than three car (32' x 22') plus storage space and shall be attached to the dwelling, forming an integral part of the building. All garages shall be side entry and shall not face the front yard.

Exterior materials must be minimum 20% brick or stone unless the Architectural Control Committee shall waive this requirement due to excellence of design. Siding materials to be wood, cedar or hardi-plank. All garage doors to be cedar or redwood stained clear. Exposed back or side elevations shall be stone or brick masonry below the first floor elevation. Also, hardi-plank soffit may be used. All materials to be approved in writing by the Architectural Control Committee before building permit is applied for and construction commences.

The Architectural Control Committee, at its sole discretion, shall determine what constitute a ranch, 1-1/2 story, or a 2 story residence. All buildings shall comply to the City of Pewaukee City Ordinances.

4. The codes and ordinances of the City of Pewaukee as they regulate setbacks from the street, and off-sets from property side lines are adopted by reference as restrictions running with the land, and no variances thereto are permitted under these restrictions. They are as follows:

Front	40 ft.
Side	15 ft.
Rear	35 ft.

5. No structures of any kind shall be moved onto any Lot, and no living quarters of temporary character shall be permitted at any time, it being the intention that only permanent private dwellings and garages shall be permitted. No boat, trailer, recreational vehicle or trucks may be parked on the premises outside of the garage, other than for a delivery of materials or merchandise. Construction vehicles are permitted during the construction or remodeling periods. No lot shall be used in whole or in part for the storage of rubbish or building materials of any character whatsoever; nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy

condition or that will be obnoxious to the eye, nor shall any substance, thing, or material be kept upon any lot that will emit foul or obnoxious odor, or that will cause any noise that will or might disturb the peace, quiet, comfort, or serenity of the occupants of surrounding property.

6. All electric, natural gas, and telephone lines shall be placed underground.

7. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot except a maximum of two dogs, two cats, and other small household pets such as canaries or parakeets, provided they are not kept, bred, or maintained for any commercial purposes.

8. Satellite dishes are not permitted. External antennae, of any type or for any purpose, shall not be permitted except upon the prior written approval of the Architectural Control Committee.

9. All swimming pools shall be approved by the Architectural Control Committee prior to commencement of construction and the ACC shall only approve in-ground swimming pool.

10. The undersigned reserves the right to set finished yard grades of all buildings, pools, fences, or any other structures to be erected or constructed. All dirt from excavations of any lot which is not used on the premises shall be deposited in such places in the subdivision as shall be directed by the undersigned, free of charge.

11. In order to maintain harmony in appearance and to protect the owners of the lots in the Subdivision, no building, fence, sign, wall, swimming pool, or other structure shall be erected, constructed, or maintained upon any lot, nor, shall any change or alteration be made thereon, unless the complete plans and specifications thereof, a plat plan showing the exact location of such building, garage, fence, wall, or other structure, the elevation thereof, and the grade of the lot and a sketch or view of such building or structure of changes shall have been submitted to and approved in writing by the undersigned or his designated representative, who will act as the Architectural Control "Committee".

a. The decision of this committee with respect of any such matter shall be final and binding upon all parties. The committee shall have the right to refuse any such plan or specifications which, in the conclusive judgement or a majority of its members, are not in conformity with these restrictions, or are not desirable aesthetically, or for any other reasons. In passing upon such plans and specifications, the committee may take into consideration the suitability of the proposed building or other structure, its design, elevation and the materials of which it is to be constructed on the proposed site; the harmony thereof with the surrounding buildings, and the view from the adjacent property. All decisions of the committee on said matters shall be final. The committee shall have the right to waive minor infractions or deviations from these restrictions in cases of hardship.

b. The original Architectural Control Committee shall be composed of MICHAEL PETERSEN and THOMAS E. GIBES. The decision of these members will be final and binding upon all parties. Neither the original Architectural Control Committee, nor

their designated representatives shall be entitled to compensation for services performed pursuant to this contract. In the event of the death or resignation or refusal to act of any of the members of the Committee while any unimproved lot remains unsold by the Seller or its successors assignees, then their respective successor to the Committee shall be appointed in writing by the Undersigned or its successors as assignee. When all the vacant lots in the Subdivision have been sold by the undersigned, or its successors or assignee, the Committee shall thereafter consist of three (3) persons, who shall be elected by a majority of the homeowners in the Subdivision.

12. **LANDSCAPE ARCHITECTURAL CONTROL:** All landscaping must be completed within one (1) year after the completion of the residence. Said landscaping must include a hard-surfaced drive, parking stand, or turn-about consisting of concrete or asphalt or similar material. No permanent gravel drive will be permitted. The hard surface with concrete, asphalt or similar material must be installed within one (1) year from the date the premises are subsequently completed. Developer has selected and approved an electric lamp post with photo-electric cell, which the buyer or his representative will install in their front yard adjacent to their driveway. The cost of the lamp post and a uniform mail box as selected by the developer shall be paid for by the lot purchaser. The mail box to be installed prior to occupancy in the location as designated by the U.S. Postal Service. The lamp post must be permanently installed and in operating condition within six (6) months after occupancy of the premises is taken by the owner.

A. All plans for dwellings shall include a professional landscape plan which shall be subject to the approval of the Architectural Control Committee and which may be submitted for approval subsequent to submission of the building plans for the dwelling. In no event shall a landscape plan be submitted later than six (6) months after the commencement of construction of a dwelling. Such landscape plan shall include plantings such that a pleasant park-like appearance shall ultimately be accomplished on the property and a uniform line of planting shall be avoided. All species of plants shall be Number 1 Grade and specified on the landscape plan accordingly. Landscape plantings for any dwelling in accordance with the approved plan shall be completed within one year from the date of issuance of a building permit by the City of Pewaukee. No existing landscape planting shall be altered or removed without prior written approval of the Architectural Control Committee.

13. **SURFACE WATER DRAINAGE:** Each lot owner must strictly adhere to, and finish grade his lot in accordance with the Master House Grade Plan on file in the office of the developer or in the office of the City of Pewaukee City Hall. The developer and the City of Pewaukee shall have the right to enter upon any lot, at any time, for the purposes of inspection, maintenance, and correction of any drainage condition. All lot owners should refer to a copy of the Final Recorded plat for verification and location of drainage easements. The Architectural Control Committee may, if necessary, require additional easements for drainage purposes. Drainage easements shall not be filled or altered in any manner that would result in the obstruction of drainage. Any storm sewer within such private easements shall be the responsibility of The Homeowners Association.

14. OWNERS ASSOCIATION:

a. An unincorporated association of the owners of lots in the Subdivision (hereinafter referred to individually as "Owner" and collectively as "Owners") is hereby created (hereinafter referred to as the "Association") for purposes of managing and controlling subdivision Common Areas (as defined below) for the common benefit of the Owners. This Association shall be known as Wyndemere of Pewaukee Homeowner Association.

b. The term "Common Area" shall mean the area of all easements granted to the Association by the Developer and its predecessors in Title. The Developer has installed landscaping, trees, plantings of various heights and species on Outlots 2, 3 and 4, as well as the cul de sacs on Glen Abby Court, Sterling Court, and Wyndemere Court, the "Tot Lot" on Outlot #2, and also any entrance signs, markers or monuments. A map of the Common Area is attached hereto.

c. The Association shall initially be governed by a two (2) member committee but shall be expanded to three (3) members when fifty percent (50%) of the Lots have been sold and closed. The members hereinafter shall be referred to as the Committee, which shall be solely responsible for the activities of the Association. The initial members of the Committee shall be Michael Petersen and Thomas E. Gibes.

d. To qualify as a member of the Committee, a person must be either an Owner or a duly designated officer or representative appointed by the Owner.

e. So long as twenty-five percent (25%) or more of the Subdivision lots are owned by Developer, all two (2) members of the Committee shall be appointed by Developer. So long as ten percent (10%) or more but less than twenty-five percent (25%) of the Subdivision lots are owned by Developer, two (2) members of the Committee shall be appointed by Developer and one (1) member shall be elected as provided herein. So long as five percent (5%) or more but less than ten percent (10%) of the Subdivision lots are owned by Developer, one (1) member of the Committee shall be appointed by Developer and two (2) members shall be elected as provided herein. If less than five percent (5%) of the Subdivision lots are owned by Developer, all of the members of the Committee shall be elected as provided herein. The provisions of this paragraph shall also apply to any future stages of development in accordance with Article V, below.

f. Each owner shall be entitled to vote in person or by proxy in elections for selecting members of the Committee. An Owner shall have one (1) vote for each lot owned.

g. The term of office of the initial members of the Committee shall commence upon the execution hereof and shall continue until the above requirements are met. Thereafter, the term of office of members of the Committee shall be for two (2) calendar years. If any member of the Committee shall die, resign, be unable to act or cease to be qualified to be a member, the unexpired term of such member shall be filled by a special

election (or appointment by Developer if applicable pursuant to the terms of Paragraph E, above.)

h. All meetings of the Committee shall be open to Owners and held upon three (3) days prior written notice to all of the Owners. Two (2) members of the Committee shall constitute a quorum. Action of the Committee shall be taken by majority vote.

i. The Committee shall have the following duties.

1. Provide for the maintenance of improvements in the Common Area which they deem necessary or desirable. These improvements consist of entryway monuments, fencing and landscaping.

2. Provide for the maintenance and repair of private storm sewer where located within the private drainage easements shown on the final plat.

3. Establish dates and procedures for the election of members of the Committee.

4. Promulgate operating procedures for the conduct of the Association and Committee's affairs.

j. The Committee shall have the following powers:

1. To cause the Common Area to be insured, maintained, repaired, landscaped and kept in good, clean and attractive condition.

2. To enter into contracts and to employ agents, attorneys or others for purposes of discharging and its responsibilities hereunder.

3. To levy and collect assessments in accordance with the provisions of Paragraph K, below.

k. The Committee shall levy and collect assessments in accordance with the following:

1. Assessments must be approved at a duly convened meeting of the Committee.

2. Written notice of an assessment shall be personally delivered to each Owner or delivered by certified mail addressed to the last known address of each Owner.

3. Assessments shall become due and payable thirty (30) days after the mailing or personal delivery of the notice, as the case may be.

4. Assessments not paid when due shall bear interest at the rate of eighteen percent (18%) per annum until paid, and such unpaid assessment and the interest thereon shall constitute a continuing lien against the lot against which it was assessed until they have been paid in full. The assessment and interest thereon shall also be the personal obligation of the Owner of the lot against which the assessment was made.

5. The Committee may, by written instrument, record a document with the Register of Deeds in Waukesha County, Wisconsin, giving notice of a lien for any such unpaid assessment and upon payment or satisfaction of the amount due to record a document canceling or releasing any such lien. The failure to file any such notices shall not impair the validity of the lien. All recording and attorneys' fees relating to any such document shall be borne by the affected Owner.

6. Upon application by any Owner, any member of the Committee may, without calling a meeting of the Committee, provide to such Owner, a statement in recordable form certifying (1) that the signer is a duly elected member of the Committee and (2) as to the existence of any unpaid assessments or other amounts due by the Owner to the Association. Such statement shall be binding upon the Committee and shall be conclusive evidence of the payment of any and all outstanding assessment or other amounts due by the Owner to the Association.

7. Any lien for assessment may be foreclosed by a suit brought by the Committee, acting on behalf of the Association, in a like manner as the foreclosure of a mortgage on real property.

l. Members of the Committee shall not be liable for any action taken by them in good faith in discharging their duties hereunder, even if such action involved a mistaken judgment or negligence by a member or agents or employees of the Committee. The Owners shall indemnify and hold the members of the Committee harmless from and against any and all costs or expenses, including reasonable attorneys' fees, in connection with any suit or other action relating to the performance of their duties hereunder.

15. Prior to the Homeowner's Association assuming control and operation of the Association, the Developer will keep responsibility and control until the conditions outlined on Page 6 are met. Initially the Association assessment fee will be $200.00 per year. After the Homeowner's Association elects their own officers and representatives, they will determine their own appropriate costs and association fees. All Association fees shall be due in the month of January in any given year. Any lot owner who takes possession of his lot prior to January 1st shall be liable to pay the Association fee in advance for the year commencing January 1st. This shall apply to all lot owners, whether they have constructed their dwelling or whether this lot is still vacant, or in the process of

being constructed. The Architectural Control Committee will send notices to all property owners prior to January 1st advising them that their Association fees are due and payable in the month of January of that given year.

16. There is a Vision Corner Easement on Lot Nos. 9, 10, 23, 32 and 41 and Outlots 2 and 4 as detailed on the recorded subdivision plat of Wyndemere of Pewaukee, as required by the City of Pewaukee ordinance, in that nothing may be grown, stored, or erected to a height above two (2) feet above ground surface.

17. The Developer has installed silt fencing in certain lots in the subdivision to control erosion. Such fencing shall be maintained by the Developer and then the subsequent Lot Buyers (on whose lots the fencing has been installed) until such time as turf layer is restored to all disturbed areas.

18. The Developer shall install at his expense a subdivision entry monument within the entrance landscape area. The design and material of construction shall be submitted to the City of Pewaukee Planning Department for approval. Installation of the entrance monument shall be within six (6) months after completion of the landscaping of the entrance. Permanent maintenance of the entrance sign shall be the responsibility of the Wyndemere of Pewaukee Homeowners Association.

19. Any violation of these restrictions which shall exist for a period of one (1) year without a written protest thereof being received by the owner of the lot involved, shall not be considered a violation thereafter. These restrictions may be changed, modified and amended by the Committee with the consent of 60% of the owners of the lots in the Subdivision. Each lot in the Subdivision shall be entitled to one (1) vote in determining said consent. These restrictions shall be deemed and construed to run with the land and shall be binding upon the respective owners of such said lots and upon all persons holding or claiming under or through them. Upon the violation of any or all of these restrictions by any owner or owners of any said lot, or their heirs, executors, administrators, or assigns, any person or persons owning any lot or lots in the Subdivision, or any member of the Committee shall have the right to proceed at law or in the equity against such person or persons violating or attempting to violate any such covenant or restriction and shall be entitled to both equitable and legal relief. Invalidation of any one of these covenants and restrictions by judgment or Court Order shall in no way affect any of the other provisions; each of which shall be construed and deemed severable and all of which are not so invalidated shall remain in full force and effect.

IN WITNESS HEREOF, I have hereunto set my hand and seal this _____ day of _____, 2004.

IN THE PRESENCE OF:

WYNDEMERE OF PEWAUKEE, INC.

_____
Witness

_____
Arthur R. Patch
President and Secretary

_____
Witness

STATE OF WISCONSIN)
) ss
MILWAUKEE COUNTY)

Personally came before me this _____ day of _____ , 2004, the above named, Arthur R. Patch, to me known to be the person who executed the foregoing instrument and acknowledged same.

_____

Notary Public, _____
County, Wisconsin

My Commission expires: _____

Electronically Recorded
4267300
WAUKESHA COUNTY, WI
REGISTER OF DEEDS
James R Behrend
Recorded On:03/14/2017 2:07:34 PM
Total Fee: $30.00 Page(s): 9
Transfer Tax: $0.00

The above recording informationverifies that this document has been electronically recorded and returned to the submitter.

FIRST AMENDMENT TO THE DECLARATION OF RESTRICTIONS

Record this document with the Register of Deeds

Name and Return Address:
Lydia J. Chartre, Esq.
Husch Blackwell LLP
555 E. Wells Street, Suite 1900
Milwaukee, WI 53202

(See Exhibit B)
(Parcel Identification Number)

WYNDEMERE OF PEWAUKEE

Wyndemere of Pewaukee was created by a Declaration of Restrictions, recorded in the Office of the Register of Deeds for Waukesha County, Wisconsin, on the 6th day of October 2004, as Document No. 3211222 (the "Declaration");

WHEREAS, the owners of the Lots in Wyndemere of Pewaukee ("Lot Owners"), pursuant to the rights reserved in Section 20 of the Declaration, desire to amend the Declaration provisions related to the operation of the Homeowners Association, along with the Assessment and enforcement provisions therein;

NOW THEREFORE, the Lot Owners hereby amend the Declaration as follows:

Section 15 shall be amended by deleting the ~~strikeout~~ language and inserting the <u>underlined</u> language to read as follows:

3. The size and heights of the buildings shall be as follows:

No dwelling shall exceed two and one-half (2-1/2) stories in height. The minimum building area, exclusive of porches, garages, bays, patios, breeze ways, and similar addition, shall not be less than the following schedule, to-wit:

A. ONE (I) STORY DWELLING.....2,400 SQUARE FEET MINIMUM
B. ONE AND ONE-HALF (1-1/2) STORY.....3,000 SQUARE FEET MINIMUM
C. TWO (2) STORY.....3,000 SQUARE FEET MINIMUM
D. ONE AND ONE-HALF STORY DWELLING SHALL HAVE AT LEAST 2,000 SQ. FT. OF AREA ON THE FIRST FLOOR LEVEL.

(These restrictions are also subject to the minimum and maximum floor area requirements of the City of Pewaukee.)

The exterior of all structures shall be natural materials: brick, cedar, ~~hardi-plank~~fiber cement, stone, or a combination of thereon. All exterior gables directly facing any street shall have a minimum roof pitch of at least 10/12, and the main body of the roof shall not be any less than an 8/12 pitch. Roofing material shall be ~~minimum 340 pound~~ dimensional fiberglass shingles having a nominal installed weight of at least 340 pounds per 100 square feet ~~(such as ELK PRESTIQUE #1)~~ or cedar shakes, slate, tile or other materials as approved by the Architectural Control Committee. ~~Masonry fireplaces and chimneys are required~~ Fireplace chases on the exterior walls and elevations of all dwellings shall be masonry. Each dwelling shall have a minimum of two (2) baths. No garage shall be smaller than 2.5 car or 550 sq. ft. nor larger than three car ~~(32 x 22)~~ plus storage space and shall be attached to the dwelling, forming an integral part of the building. All garages shall be side entry and shall not face the front yard.

~~Exterior materials must be~~ A minimum of 20% of the gross vertical surface area (i.e. inclusive of windows and doors) of the entire exterior (all elevations) shall be brick or stone unless the Architectural Control Committee ~~shall~~ waives this requirement due to excellence of design. Siding materials to be used shall be stucco, wood, cedar or ~~hardi-plank~~fiber cement, brick or stone, including the exposed back or side elevations below the first floor elevation. No exposed concrete block or poured concrete walls shall be allowed. Also, ~~hardi-plank~~fiber cement soffit may be used. All materials to be approved in writing by the Architectural Control Committee before building permits are applied for and construction commences.

The Architectural Control Committee, at its sole discretion, shall determine what constitute a ranch, 1-1/2 story', or a 2 story residence. All buildings shall comply ~~to~~with the City of Pewaukee City Ordinances.

12. In order to maintain harmony in appearance and to protect the owners of the lots in the Subdivision, no building, fence, sign, wall, swimming pool, or other structure shall be erected, constructed, or maintained upon any lot, nor, shall any change or alteration be made thereon, unless the complete plans and specifications thereof, a plat plan showing the exact location of such building, garage, fence, wall, or other structure, the elevation thereof, and the grade of the lot and a sketch or view of such building or structure of changes shall have been

submitted to and approved in writing by ~~the undersigned or his designated representative, who will act as~~ the Architectural Control ~~"Committee"~~ ("ACC") appointed by the Homeowner Association in accordance with its Bylaws.

~~a.~~ The decision of ~~this committee~~ the ACC with respect of any such matter shall be final and binding upon all parties. The ACC ~~committee~~ shall have the right to refuse any such plan or specifications which, in the conclusive judgment of a majority of its members, are not in conformity with these restrictions, or are not desirable aesthetically, or for any other reasons. In passing upon such plans and specifications, the ACC ~~committee~~ may take into consideration the suitability of the proposed building or other structure, its design, elevation and the materials of which it is to be constructed on the proposed site, the harmony thereof with the surrounding buildings, and the view from the adjacent property. All decisions of the ACC ~~committee~~ on said matters shall be final. The ACC ~~committee~~ shall have the right to waive minor infractions or deviations from these restrictions in cases of hardship or in consideration of overall excellence of design. Prior allowances or waivers of deviations by the ACC shall NOT create an entitlement to similar deviations or waivers for future homes.

~~b. The original Architectural Control Committee shall be composed of MICHAEL PETERSEN and THOMAS E. GIBES. The decision of these members will be final and binding upon all parties. Neither the original Architectural Control Committee, nor their designated representatives shall be entitled to compensation for services performed pursuant to this contract. In the event of the death or resignation or refusal to act of any of the members of the Committee, while any unimproved lot remains unsold by the Seller or its successor's assignees, then their respective successor to the Committee shall be appointed in writing by the Undersigned or its successor's as assignee. When all the vacant lots in the Subdivision have been sold by the undersigned, or its successor's or assignee, the Committee shall thereafter consist of three (3) persons, who shall be elected by a majority of the homeowners in the Subdivision.~~

15. OWNERS ASSOCIATION:

a. ~~An unincorporated association of~~ tThe owners of lots in the Subdivision (hereinafter referred to individually as "Owner" and collectively as "Owners") ~~is hereby~~ have ~~created~~ incorporated their Homeowners Association as a nonstock corporation under Chapter 181 of the Wisconsin Statutes (hereinafter referred to as the "Association") for purposes of managing and controlling subdivision Common Areas (as defined below) for the common benefit of the Owners. This Association shall be known as Wyndemere of Pewaukee Homeowner Association, Inc. The Articles of Incorporation and Bylaws of Wyndemere of Pewaukee Homeowner Association, Inc. shall govern the Association and control whenever a conflict arises between those documents and this Declaration.

b. The term "Common Area" shall mean the area of all easements granted to the Association by the Developer and its predecessors in Title. The Developer has installed landscaping, trees, plantings of various heights and species on Outlots 2, 3 and 4, as well as the cul de sacs on Glen Abby Court, Sterling Court, and Wyndemere Court, the "Tot Lot" on Outlot

#2, and also any entrance signs, markers or monuments. A map of the Common Area is attached hereto.

c. The Association shall ~~initially~~ be governed by a ~~two (2) member committee but shall be expanded to three (3) members when fifty percent (50%) of the Lots have been sold and closed. The members hereinafter shall be referred to as the Committee, which shall be solely responsible for the activities of the Association. The initial members of the Committee shall be Michael Petersen and Thomas E. Gibes.~~ Board of Directors as set forth in the Bylaws.

~~d. To qualify as a member of the Committee, a person must be either an Owner or a duly designated officer or representative appointed by the Owner.~~

~~e. So long as twenty five percent (25%) or more of the Subdivision lots are owned by Developer, all two (2) members of the Committee shall be appointed by Developer. So long as ten percent (10%) or more but less than twenty five percent (25%) of the Subdivision lots are owned by Developer, two (2) members of the Committee shall be appointed by Developer and one (1) member shall be elected as provided herein. So long as five percent (5%) or more but less than ten percent (10%) of the subdivision lots are owned by Developer, one (1) member of the Committee shall be appointed by Developer and two (2) members shall be elected as provided herein. If less than five percent (5%) of the Subdivision lots are owned by Developer, all of the members of the Committee shall be elected as provided herein. The provisions of this paragraph shall also apply to any future stages of development in accordance with Article V, below.~~

~~f.~~d. Each owner shall be entitled to vote as set forth in the Bylaws. ~~in person or by proxy in elections for selecting members of the Committee. An Owner shall have one (1) vote for each lot owned.~~

~~g. The term of office of the initial members of the Committee shall commence upon the execution hereof and shall continue until the above requirements are met. Thereafter, the term of office of members of the Committee shall be for two (2) calendar years. If any member of the Committee shall die, resign, be unable to act or cease to be qualified to be a member, the unexpired term of such member shall be filled by a special election (or appointment by Developer if applicable pursuant to the terms of Paragraph E, above.)~~

~~h. All meetings of the Committee shall be open to Owners and held upon three (3) days prior written notice to all of the Owners. Two (2) members of the Committee shall constitute a quorum. Action of the Committee shall be taken by majority vote.~~

~~i. The Committee shall have the following duties.~~

~~1. Provide for the maintenance of improvements in the Common Area which they deem necessary or desirable. These improvements consist of entryway monuments, fencing and landscaping.~~

2. Provide for the maintenance and repair of private storm sewer where located within the private drainage easements shown on the final plat.

3. Establish dates and procedures for the election of members of the Committee.

4. Promulgate operating procedures for the conduct of the Association and Committee's affairs.

j. The Committee shall have the following powers:

1. To cause the Common Area to be insured, maintained, repaired, landscaped and kept in good, clean and attractive condition.

2. To enter into contracts and to employ agents, attorneys, or others for purposes of discharging and its responsibilities hereunder.

3. To levy and collect assessments in accordance with the provisions of Paragraph K, below.

k.c. The Committee Board shall levy and collect assessments in accordance with the following: as set forth in the Bylaws. All unpaid assessments, interest, late fees, and the Association's actual attorneys' fees and costs spent in collection efforts constitute a lien on the Lot until paid.

1. Assessments must be approved at a duly convened meeting of the Committee.

2. Written notice of an assessment shall be personally delivered to each Owner or delivered by certified mail addressed to the last known address of each Owner.

3. Assessments shall become due and payable thirty (30) days after the mailing or personal delivery of the notice, as the case may be.

4. Assessments not paid when due shall bear interest at the rate of eighteen percent (18%) per annum until paid, and such unpaid assessment and the interest thereon shall constitute a continuing lien against the lot against which it was assessed until they have been paid in full. The assessment and interest thereon shall also be the personal obligation of the Owner of the lot against which the assessment was made.

5. The Committee may, by written instrument, record a document with the Register of Deeds in Waukesha County, Wisconsin, giving notice of a lien for any such unpaid assessment and upon payment or satisfaction of the

~~amount due to record a document canceling or releasing any such lien. The failure to file any such notices shall not impair the validity of the lien. All recording and attorneys' fees relating to any such document shall be borne by the affected Owner.~~

6. ~~Upon application by any Owner, any member of the Committee may, without calling a meeting of the Committee, provide to such Owner, a statement in recordable form certifying (1) that the signer is a duly elected member of the Committee and (2) as to the existence of any unpaid assessments or other amounts due by the Owner to the Association. Such statement shall be binding upon the Committee and shall be conclusive evidence of the payment of any and all outstanding assessment or other amounts due by the Owner to the Association.~~

7. ~~Any lien for assessment may be foreclosed by a suit brought by the Committee, acting on behalf of the Association, in a like manner as the foreclosure of a mortgage on real property.~~

~~1. Members of the Committee shall not be liable for any action taken by them in good faith in discharging their duties hereunder, even if such action involved a mistaken judgment or negligence by a member or agents or employees of the Committee. The Owners shall indemnify and hold the members of the Committee harmless from and against any and all costs or expenses, including reasonable attorneys' fees, in connection with any suit or other action relating to the performance of their duties hereunder.~~

This First Amendment to the Declaration complies with the requirements of the Declaration at Section 20 in that it has been approved by 60% of the Lot owners.

IN WITNESS WHEREOF, the Lot Owners have executed this First Amendment to Declaration of Restrictions for Wyndemere of Pewaukee this 13 day of MARCH, ~~2016.~~ 2017

WYNDEMERE OF PEWAUKEE HOME OWNERS ASSOCIATION, INC., a Wisconsin Non-Stock Corporation,

By: _____
BOB PEASE, President

STATE OF WISCONSIN)

) ss.
COUNTY OF WAUKESHA)

This document was acknowledged before me by ____, as President of Wyndemere of Pewaukee Home Owners Association, Inc. on this 13 day of March, ~~2016~~ 2017

Notary Public, State of Wisconsin
Name: Peter Walsh
My Commission ~~Expires~~: is Permanent

This document was drafted by:
Lydia J. Chartre, Esq.
Husch Blackwell LLP
555 E. Wells Street, Suite 1900
Milwaukee, WI 53202



Exhibit A – Legal Description

Lots 1 through 41 and any Outlots in Wyndemere of Pewaukee, being a subdivision in the Southwest ¼ of the Northwest ¼ of Section 12, Township 7 North, Range 19 East and the South ½ of the Northwest ¼ of the Northwest ¼ of Section 12, Township 7 North, Range 19 East, in the City of Pewaukee, Waukesha County, Wisconsin. Excepting therefrom premises conveyed to Waukesha County Highway per instrument recorded in Volume 1021, Page 355, as Document No. 641769.

Exhibit B

Lot Number	Address	Tax Parcel
Lot 1	N37W22942 WYNDEMERE DR	PWC 0910058
Lot 2		PWC 0910059
Lot 3	N37W22928 WYNDEMERE DR	PWC 0910060
Lot 4	N37W22910 WYNDEMERE DR	PWC 0910061
Lot 5	N37W22900 WYNDEMERE DR	PWC 0910062
Lot 6	N37W22866 WYNDEMERE DR	PWC 0910063
Lot 7	N37W22838 WYNDEMERE DR	PWC 0910064
Lot 8	N36W22800 WYNDEMERE DR	PWC 0910065
Lot 9	N36W22742 LONG VALLEY RD	PWC 0910066
Lot 10	N36W22739 LONG VALLEY RD	PWC 0910067
Lot 11	W227N3610 WYNDEMERE CT	PWC 0910068
Lot 12	W227N3596 WYNDEMERE CT	PWC 0910069
Lot 13	W227N3554 WYNDEMERE CT	PWC 0910070
Lot 14		PWC 0910071
Lot 15	W227N3500 WYNDEMERE CT	PWC 0910072
Lot 16	W228N3507 WYNDEMERE CT	PWC 0910073
Lot 17	W228N3513 WYNDEMERE CT	PWC 0910074
Lot 18		PWC 0910075
Lot 19	W228N3591 WYNDEMERE CT	PWC 0910076
Lot 20	W228N3613 WYNDEMERE CT	PWC 0910077
Lot 21	W228N3627 WYNDEMERE CT	PWC 0910078
Lot 22	N36W22747 WYNDEMERE DR	PWC 0910079
Lot 23	W228N3650 STERLING CT	PWC 0910080
Lot 24		PWC 0910081
Lot 25		PWC 0910082
Lot 26	W228N3604 STERLING CT	PWC 0910083
Lot 27	W228N3600 STERLING CT	PWC 0910084
Lot 28	W229N3601 STERLING CT	PWC 0910085
Lot 29	W229N3607 STERLING CT	PWC 0910086
Lot 30		PWC 0910087
Lot 31	W229N3637 STERLING CT	PWC 0910088
Lot 32		PWC 0910089
Lot 33		PWC 0910090
Lot 34	N36W22939 WYNDEMERE	PWC 0910091
Lot 35	W229N3630 GLEN ABBY CT	PWC 0910092
Lot 36	W229N3624 GLEN ABBY CT	PWC 0910093
Lot 37	W229N3612 GLEN ABBY	PWC 0910094
Lot 38		PWC 0910095
Lot 39	W229N3619 GLEN ABBY CT	PWC 0910096
Lot 40		PWC 0910097
Lot 41		PWC 0910098

Wyndemere Architectural Control Guidelines (April 25, 2015)

Purpose

This document details ACC interpretation of certain key aspects of the Deed Restrictions and the ACC's policies for exercising its discretion in application of same. The intent of these guidelines is to promote common understanding among ACC, residents and new applicants in order to facilitate plan preparation and review.

Deviations

Existing deviations from these guidelines due to prior variability in interpretation or enforcement of the Deed Restrictions do NOT create an entitlement to similar deviations or waivers for new homes.

Masonry Percentage

The Deed Restrictions require that exterior materials must be minimum 20% brick or stone, unless waived due to excellence of design. The denominator used by the ACC in calculating the masonry percentage is the gross vertical surface area (i.e. inclusive of windows and doors) of the entire exterior (all elevations).

Roof Shingles

The Deed Restrictions require a minimum shingle weight of 340 lbs per "square" (i.e. 100 square feet). Some manufactures no longer specify weight in this manner, however the ACC will typically accept an asphalt shingle that is specified to be installed using at least 4 bundles per square (i.e. coverage of no more than 25 square feet per bundle). Also, as an alternative to asphalt shingles, authentic or simulated wood shakes, slate, and tile are also acceptable and can substantially contribute to excellence of design.

Home and Garage Orientation

Generally, homes should be placed on the lot with planes of the front elevation parallel to the street (or to the chord of the arc where the street is curved, as on a cul-de-sac). Garages shall have side entry doors and be placed on the high side of the lot and oriented to minimize interior visibility to street traffic.

As past waivers of these standards have been very controversial with residents, any future exceptions are not anticipated in the absence of a very unusual and compelling case of hardship. In general, the inability to fit a particular home (e.g. a large ranch) on a given lot is not sufficient to justify a waiver if the lot could accommodate other equally valuable homes that would meet these standards.

Landscaping

New homeowners have one year from the time of the occupancy permit to complete landscaping installation. Specific requirements include:

- Professional landscape design plans that clearly specify plant species and size are required to be submitted for ACC approval within six months from the time of building permit.
- Beds and number-1 grade plantings are required to be installed per ACC-approved plans within one year from the time of building permit.
- Uniform mailbox is required to be installed at time of occupancy permit.
- Uniform electric lamp post is required to be installed within six months of occupancy permit.

Pools, decks, gazebos, fences and similar structures require ACC approval and should be incorporated into the overall landscape design with necessary buffer plantings, etc. as appropriate.

In addition to the above, downspout trenching (as a matter of architectural excellence) and a lawn irrigation system (which, as a practical matter, is necessary to keep the lawn green and healthy) are strongly encouraged.

Excellence of Design

In assessing excellence of design to determine whether and to what extent certain requirements may be relaxed in a particular review, the ACC considers a number of criteria, both objective and subjective, including:

- Quality, variety and aesthetic appeal of the exterior materials:
  - Uniqueness of material type and color with respect to existing homes.
  - Size, color and distinctiveness of brick / stone.
- Placement of masonry (and/or similar premium exterior materials, e.g. stucco or EIFS) in terms of impact to "curb appeal". In general:
  - Masonry and other premium materials placed on the front of the home typically have the greatest impact followed by masonry on the side elevation(s) most visible to street traffic. Generally, use of horizontal siding on the front elevation should be minimized.
  - Masonry incorporated toward the rear of the home or nearer to ground level (e.g., in a low "beltline" or "apron") where it will be obscured by landscaping, terrain and structures is of less aesthetic value than a similar amount placed in visible locations / on prominent features (e.g. on gables, chimney chase, etc.).
  - For excellence of design, masonry should be brought up to the peak of at least two gables (or at least one gable of at least 26 feet in height).
  - For excellence of design, masonry on the left and right hand sides of the front elevation must be well-balanced.
  - For excellence of design, masonry should terminate only at inside corners, appropriate returns ("wraps") or wing walls.
- Other design details, including:
  - Accents incorporated in masonry (e.g. carved address stone, quoins, corbels, cornices, keystones, clay flue / chimney pot, soldier course brick in place of wooden trim boards, etc.).
  - Use of windows or other design features to avoid substantial blank areas in walls.
  - Use of windows of appropriate size and having attractive grills / mutton bars.
  - Complexity / attractiveness of roof lines and pitch.
  - Roof shingle type, style and quality / weight.

Plan Submission Requirements

- Building plan submissions require scale drawings of all elevations and floor plans plus a land survey. Preliminary plans may be submitted electronically in .pdf format. Final plans for approval must be submitted as three full-size (at least ¼" scale) sets one of which will be retained by the ACC.
- Building plans should specify exterior materials and roof shingle type. Color selections may be submitted for ACC approval with plan or at a later date).
- Professional landscape design plans must specify plant species and size and indicate the locations of proposed pools, decks, gazebos, fences and similar structures.