

DOCUMENT TITLE

Amended and Restated Declaration Of
Restrictions And Homeowners
Association For Hawks Glen

DOCUMENT NO.

0915481

RONALD A. VOIGT
OZAUKEE COUNTY
REGISTER OF DEEDS
PORT WASHINGTON, WI
TXID: 89848

RECORDED ON
11/25/2009 10:38AM

REC FEE: 65.00
TRANS FEE: 0.00
PAGES: 28
EXEMPT #: 0

RECORDING AREA

NAME AND RETURN ADDRESS

George B. Erwin, III
Schmidt, Darling & Erwin
2300 North Mayfair Road
Suite 1175
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\$65

Parcel Identification Number

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AMENDED AND RESTATED DECLARATION OF RESTRICTIONS AND HOMEOWNERS ASSOCIATION FOR HAWKS GLEN

This Amended and Restated Declaration of Restrictions and Homeowners Association for Hawks Glen is made effective as of the 1st day of October, 2009, by STE Mequon, LLC, a Wisconsin limited liability company ("Developer").

RECITALS

A. Developer owns all those lands located in the City of Mequon ("City"), Ozaukee County, Wisconsin, platted as a subdivision known as Hawks Glen described on Exhibit A attached hereto ("Subdivision").

B. The Subdivision is a platted subdivision consisting of 17 lots and one outlot, Outlot 1, being designated as Common Area to remain as open space and owned by the Association pursuant to Section 1.04(c). Lot 17, as depicted on the Final Plat for the Subdivision which has been approved by the City and recorded with the Register of Deeds for Ozaukee County, Wisconsin (the "Final Plat"), is not bound by the terms of this Declaration and shall not be part of the Association.

C. On August 31, 2009, Developer acquired from Hawks Glen, LLC all of its right, title and interest in and to the Subdivision pursuant to and in accordance with an Assignment of Rights recorded in the Register of Deeds office for Ozaukee County, Wisconsin on the 3rd day of September, 2009, as Document No. 0911167 and such became the successor in interest to Developer's rights under the Declaration including Hawks Glen Homeowners Association, Inc.

NOW, THEREFORE, Developer as successor-in-interest to Hawks Glen, LLC, herewith declares, publishes and established as an Amended and Restated Declaration of Restrictions and Homeowners Association for Hawks Glen superceding thereby the original Declaration recorded as Document No. 0885680 and the First Amendment to Declaration of Restrictions and Homeowners Association for Hawks Glen ("First Amendment") recorded as Document No. 887231.

DEFINITIONS, PURPOSE & USE RESTRICTIONS

1.01 DEFINITIONS.

(a) "Association" shall mean the Hawks Glen Homeowners Association, Inc., a non-profit, nonstock homeowner's association, which is organized under this Declaration.

(b) "Architectural Control Board," or the "Board," shall mean the officers of the Association appointed or elected in accordance with Section 3.07 of this Declaration who shall serve as members of the Architectural Control Board and shall operate and manage the Association as a Board of Directors.

(c) "Common Area" or "Common Areas" shall mean Outlot 1 or any other area within the Subdivision which is not a Lot as identified in this Declaration or on the Subdivision plat, and includes, without limitation, all such areas that are part of the Subdivision but do not fall within the physical boundaries of a Lot, including any dedicated street or other dedicated area for which the City has not assumed responsibility for maintenance.

(d) "Control Transfer" shall mean that point in time when 80% of the lots are sold by the Developer to individual Lot Owners.

(e) "Declaration of Landscape Preservation and Maintenance Easement" shall mean the agreement between the Developer and the City of Mequon dated March 5, 2008 and recorded on May 27, 2008 as Document No. 0884430.

(f) "Detention Pond Maintenance and Easement Agreement" shall mean the agreement between the Developer and the City of Mequon dated March 5, 2008 and recorded on May 27, 2008 in as Document No. 0884432.

(g) "Developer Landscaping" shall mean landscape improvements as shown on the Landscape Plan by Planning and Design Institute, Inc. dated August 10, 2007 and last revised August 17, 2007 and is incorporated herein and includes various hedge and screen plantings, berms, trees, shrubbery and related landscaping which are to be constructed by the Developer on certain Lots and Common Areas in the Subdivision. Developer reserves the right to change the Developer Landscaping at its sole discretion.

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

(i) "Home" shall mean a residential building designed and used as a dwelling for one Family (which shall not include any attached garage).

(j) "Lot" shall mean a platted lot within the Subdivision identifiable by reference to a lot number, regardless of whether such property is currently platted or platted at some future time.

(k) "Lot Owner," "Lot Owners" or "Co-Owners" shall mean the holder(s) of a legal or equitable ownership interest in fee simple record title to a Lot, regardless of the type of tenancy or estate, and shall include land contract vendees and vendors but shall not include the holder of any leasehold interest or any mortgage or consensual lien prior to acquisition of legal or equitable title.

(l) "Master Grading Plan" shall mean the Grading Plan prepared by North Shore Engineering, dated May 23, 2007 and last revised August 13, 2007 on file at the City for use by the City to monitor grading and building pad compliance.

(m) "Notification of Public Road Reservation" shall mean the agreement between the Developer and the City dated May 27, 2008 and recorded on May 27, 2008 as Document No. 884431.

(n) "Property" shall include a Lot and all improvements.

(o) "Section" shall mean all those provisions within a numbered heading of this Declaration.

(p) "Street Tree Preservation and Maintenance Easement" shall mean the agreement between the Developer and the City dated March 5, 2008 and recorded on May 27, 2008 Document No. 884433.

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

(r) "Subdivision" shall mean the lands described on the attached Exhibit A, excluding lands now or hereafter dedicated to the City, and including such contiguous parcels of real estate as may be acquired by Developer from time to time and declared by Developer to be a part of the Subdivision under an instrument executed by Developer and recorded in the office of the Register of Deeds of Ozaukee County, Wisconsin.

(s) "Stewardship Plan" shall mean the "Hawks Glen Stewardship Plan" prepared by Cedarburg Science, LLC and dated September 4, 2007, which assesses the natural area habitats and landscaping at the Subdivision and provides guidance and recommendations for the maintenance, restoration and enhancement of these amenities.

1.02 GENERAL PURPOSE.

The general purpose of this Declaration is to help assure that the Subdivision will become and remain an attractive residential area and in furtherance of such purpose: to preserve and maintain high aesthetic standards for all Improvements, as well as the natural beauty of certain open spaces and Common Areas within the Subdivision; to help assure the best use and most appropriate development and improvement of each Lot; to protect owners of Lots against use of surrounding Lots which may detract from the residential value or enjoyment of their Property; to

guard against the erection or maintenance of garish or poorly designed or disproportioned structures; to obtain a harmonious and aesthetically pleasing blend of materials, structures, and color schemes; to ensure a residential development of the Subdivision consistent with high aesthetic standards and the purposes for which each such Lot is platted; to encourage and secure the erection of attractive residential structures with appropriate locations on the Lot; to prevent installation of Improvements which may adversely affect the aesthetic appearance of a Lot or surrounding area; to secure and maintain a proper spatial relationship of buildings, Structures and other Improvements; and to otherwise secure mutual enjoyment of benefits for owners and occupants of residential property within the Subdivision. No warranty or representation is made by Developer that such purpose will be achieved.

1.03 SINGLE FAMILY USE: GENERAL RESTRICTION.

(a) Each Lot shall be used solely for residential purposes by one Family, except that business activities may be conducted in or from any Home if confined solely to the transaction of business by telephone or computer. The term "residential purposes" shall include 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.

(b) Only one Home may be constructed on each Lot and no garage, tent, or other Improvement (except for the Home) shall be used for temporary or permanent living or sleeping for family or guests without the prior approval of the Board.

(c) Each Lot and all front, side, and rear yards shall be maintained by the Lot Owner so as to be neat in appearance when viewed from any street or other Lot and, if not properly maintained, the Association may perform yard maintenance and charge the costs thereof to the Lot Owner and levy a Special Assessment against the Lot. Developer may, but shall not be obligated to improve any areas of the Subdivision with grass or plantings or to cut grass or foliage growing in a natural environment.

(d) No Lot shall be used in whole or in part for conducting any unlawful activity or for any unlawful purpose. No noxious odors or loud noises shall be permitted to escape from any Home or Lot nor shall any activity be permitted or engaged in which constitutes a public or private nuisance.

1.04 DRAINFIELD EASEMENTS: IMPROVEMENTS IN RIGHTS OF WAY: TITLE TO COMMON AREAS: STEWARDSHIP PLAN.

(a) The Board may approve "drain field" easements over certain portions of Outlot 1 for the benefit of the owners of the immediately adjacent Lots. The "drain field" easement is for the use of the lot owner to construct a drain field to serve their private on-site sewage disposal system. The owner of the Lot shall obtain the approval of the Board before undertaking construction of any portion of his private on-site sewage system. In addition, the owner of the system is solely responsible for the construction, maintenance and repair of their drain field and appurtenances including the restoration of any disturbance to Outlot 1 resulting from construction or maintenance activities.

(b) The Subdivision plat indicates a 60-foot wide "Road Reservation" on Outlot 1 North of Lot 1. The purpose of this Road Reservation is to provide for a possible future public roadway connection from the Subdivision to the currently undeveloped parcel to the west in the event of future development. The presence of the Road Reservation on the Final Plat does not obligate the Lot Owners or Association to provide for or share in any costs associated with any future roadway construction undertaken within the Road Reservation.

(c) Each Lot Owner shall receive, at closing of the initial sale of a Lot, an undivided interest in all of the Common Elements with all other Lot Owners.

(d) The Stewardship Plan has been prepared for the use of the Developer, Association and individual Lot Owners. The Stewardship Plan provides an assessment of the natural area habitats and Developer Landscaping at the Subdivision. In addition, the Stewardship Plan provides guidance and recommendations for the maintenance, restoration and potential enhancements of these amenities.

1.05 RESTRICTIONS ON USE OF RECREATIONAL VEHICLES.

Recreational vehicles (which shall include, but not be limited to motorcycles, snowmobiles, trail bikes, travel trailers and vans, motor homes, dune buggies, go carts and other off-street motorized vehicles of any kind and other vehicles as defined by the Board) or trucks shall not be parked, kept or stored on any Common Area or undeveloped area of the Subdivision, nor shall any such car, recreational vehicle or truck be parked, kept, or stored overnight on any Lot outside an enclosed garage, without the prior approval of the Board (which may be withheld on the basis of aesthetics if for no other reason). Such recreational vehicles shall not be used or operated on any Lot or otherwise within the Subdivision except on dedicated streets in accordance with applicable traffic laws.

1.06 ANIMALS AND PETS.

No livestock, poultry, reptile, or other animal of any kind shall be raised, bred or kept on any Lot, and no more than two (2) dogs, two (2) cats and two (2) other normal household pets (as may be approved by the Board from time to time) may be kept, and no animal may be kept, bred or maintained for any commercial purpose or in an unreasonable number or manner. The right of any Lot Owner to keep such a pet on any Lot is subject to the condition that the pet is not allowed to unreasonably annoy any other Lot Owner and is not allowed to run at large. No dangerous dogs, as defined by the Board, may be kept.

1.07 GARBAGE AND REFUSE.

No Lot shall be used or maintained for dumping or storage of trash, garbage, or debris of any kind, except for temporary storage in sanitary covered containers suitably screened from view from streets and adjoining Lots. There shall be no burning or burial of any garbage, trash, or debris at any time, other than for burning of leaves and light brush if approved by both the Board and the local Fire Department.

1.08 DECLARATION OF LANDSCAPE PRESERVATION AND MAINTENANCE EASEMENT.

A Declaration of Landscape Preservation and Maintenance Easement was recorded in conjunction with the recording of the Final Plat. In general, this document addresses the rights and responsibilities of the Developer, the Association and the City as they relate to the landscaping and maintenance of the Common Areas of the Subdivision.

1.09 DETENTION POND MAINTENANCE AND EASEMENT AGREEMENT.

A Detention Pond Maintenance and Easement Agreement with the City was recorded in conjunction with the recording of the Final Plat. In general, this document addresses the rights and responsibilities of the Developer, the Association and the City as they relate to the construction and maintenance of the two detention ponds located on Outlot 1 of the Subdivision.

1.10 STREET TREE PRESERVATION AND MAINTENANCE EASEMENT.

A Street Tree Preservation and Maintenance Easement was recorded in conjunction with the recording of the Final Plat. In general, this document addresses the rights and responsibilities of the Developer, the Association and the City as they relate to the installation, protection, maintenance and replacement of the developer installed street trees in the Subdivision.

1.11 NOTIFICATION OF PUBLIC ROAD RESERVATION.

A Notification of Public Road Reservation was recorded in conjunction with the recording of the Final Plat. In general, this document provides notice to Lot Owners of the possibility of a public road being constructed on Outlot 1 North of Lot 1 to connect Hawks Glen Drive to the currently undeveloped property to the west.

1.12 LOT OWNERS AND HOMEOWNERS ASSOCIATION MAINTENANCE.

(a) Each Lot Owner affected by the Developer Landscaping shall be responsible for maintaining and repairing the Developer Landscaping located on each Lot Owner's Lot. Such responsibility shall include, but is not limited to, the seeding, watering and mowing of all lawns, the pruning, cutting and replacement of all trees and shrubbery so as to maintain the Developer Landscaping in an attractive condition consistent with the original design of Developer Landscaping. In the event a Lot Owner causes the removal of trees located in the tree preservation area of the Street Tree Preservation and Maintenance Agreement, the Association and its agents shall have the right to enter upon said Lot to correct, repair, maintain and restore the Developer Landscaping or to replace trees under the Street Tree Preservation and Maintenance Agreement. An irrevocable right and easement is hereby granted for the benefit of the Association to enter onto Lots to obtain ingress and egress necessary to maintain and make repairs to the Developer Landscaping and to fulfill the terms of the Street Tree Preservation and Maintenance Agreement. The Association shall thereafter have the right to levy a Special

Assessment against the Lot Owner involved for the costs of such maintenance and repairs performed by the Association, pursuant to the provisions of Section 3.10 hereof.

(b) The Association shall be responsible for maintaining and repairing the Developer Landscaping on Common Areas. Such responsibility shall include, but is not limited to, the seeding, watering and mowing of lawn and grass areas, the pruning, cutting and replacement of all trees and shrubbery so as to maintain these areas in an attractive condition consistent with the original design of the Developer Landscaping in accordance with the Stewardship Plan, the Declaration of Landscape Preservation and Maintenance Agreement, and the Street Tree Preservation and Maintenance Agreement. The Association shall also be responsible for maintaining and repairing the detention ponds and related vegetation and landscaping located on Outlot 1. Such responsibility shall include, but is not limited to, the seeding, watering and mowing of all lawn and grass areas, the pruning, cutting and replacement of all trees and shrubbery so as to maintain these areas in an attractive condition consistent with the original design of the Developer Landscaping in accordance with the Stewardship Plan and the terms and conditions of the Detention Pond Maintenance and Easement Agreement. An irrevocable right and easement is hereby granted for the benefit of the Association to enter onto Lots to obtain ingress and egress necessary to maintain and make repairs to the Developer Landscaping. The costs of such maintenance and repairs will be levied by the Association equally against all Lot Owners, other than the Developer, as a General Assessment pursuant to Section 3.10 hereof.

(c) Any signs, monuments or structures constructed by Developer or the Association on any Common Areas shall be properly maintained by the Association. No Lot Owner shall erect any Structure or Improvement in the Common Areas except as defined in Section 1.04(a). The costs of such maintenance and repairs will be levied by the Association equally against all Lot Owners, other than the Developer, as a General Assessment pursuant to Section 3.10 hereof.

(d) **Binding Effect.** All easements and rights described herein are easements appurtenant, running with the land and are subject to the reasonable control of the Association. All easements and rights described herein are granted and reserved to, and shall inure to the benefit of and be binding on, the Lot Owners, purchasers, mortgagees, lessees and occupants and their heirs, personal representatives, successors and assigns.

1.13 USE OF COMMON AREAS

(a) All Common Areas including Outlot 1 shall be used as open space for the common benefit of the Subdivision and not for recreational or other activities (except as defined in Section 1.04(a) by any Lot Owner unless previously approved by the Board (which approval, if given, may be revoked at any time).

(b) Permitted uses of the Common Areas are as follows:

(1) The aesthetic, recreational and cultural enjoyment of the residents of the Subdivision.

(2) Construction, maintenance and use of building(s) and other facilities and devices for noncommercial aesthetic, recreational and cultural purposes by members of the Association on condition that the City and the Architectural Control Board shall first approve the construction and operation of same.

(3) Drainage courses and retention ponds.

(4) The installation as inconspicuously as possible of gas, electric and other utility lines and related facilities such as may be necessary to serve the subdivision with the location and plans for any installation above ground being first subject to the approval of the City and the Architectural Control Board.

(5) Mound systems for Lots 1 through 16.

(6) Walking trails for the benefit of the Homeowners and the public.

(7) Subdivision signage.

(8) Construction of a public roadway connection within the "Road Reservation" as depicted on the Final Plat over Outlot 1 from Hawks Glen Drive to the currently undeveloped property to the west of the Subdivision.

(9) Planting, maintaining and harvesting of crops as may be agreed to by Developer or the Association and a local farmer.

(c) Restrictions on the uses of the Common Areas are as follows:

(1) No use or occupation other than permitted above shall be hereinafter established or maintained on Outlot 1.

(2) No construction on Outlot 1 of any permitted use shall be permitted without obtaining written permission from the Architectural Control Board.

(3) The conditions of this Section 1.13 shall not prevent any permanent excavation or work necessary for purposes of the permitted uses.

CONSTRUCTION OF IMPROVEMENTS

2.01 MINIMUM LIVING AREA & HEIGHT REQUIREMENTS; GARAGES.

(a) Each Home shall have a minimum living area (exclusive of basement, attic, garage, porches, patios, and storage areas) of not less than 2,400 square feet for a ranch home or 2,800 square feet for a two story home:

The Board shall have the exclusive right to determine whether such requirements will be satisfied and any decision of the Board shall be final and conclusive.

(b) Each Home shall have a basement with a finished floor area (exclusive of any crawl space) of not less than 60% of the area of the first floor.

(c) No Home shall exceed three stories (excluding the basement).

(d) An attached enclosed garage (for at least two and not more than four cars or vehicles) shall be constructed at the time of construction of the Home and all exterior portions of such garage shall be completed prior to occupancy of the Home. Garage cannot face the roadway unless approved by Architectural Control Board. Each Lot Owner expressly agrees and acknowledges that under no circumstances shall any Lot owner construct an attached enclosed garage for more than four cars or vehicles. All driveways shall be located no closer than five (5) feet from the lot line or such greater distance as is required by the City.

2.02 LOCATION & SET BACK.

(a) No Home or garage (including eaves, steps, overhangs, and attached porches, patios and other appurtenances) shall be located on any Lot:

- Closer than 50 feet to the front lot line at any point;
- Closer than 20 feet to the rear Lot line at any point;
- Closer than 20 feet to the side Lot line adjoining a Common Area at any point; or
- Closer than 40 feet to the side Lot line adjoining another Lot or street at any point.

Each corner Lot shall be determined by the Board to have one rear Lot line, one side Lot line, one front Lot line and a side street line based on the proposed orientation of the Home and other Improvements.

(b) Approval by the Plan Commission or building inspector of the City with respect to setbacks or other matters shall not be binding on the Board in any respect.

(c) Notwithstanding the set-back requirement specified above, the orientation and precise location of each Home and garage, as well as all other improvements on the Lot, must be approved in writing by the Board prior to any construction, it being intended that the Board may, in its discretion, impose greater or lesser set-back requirements than those specified above in order to achieve or maintain the aesthetic appearance for the Subdivision or any portions thereof which the Board deems advisable.

(d) The Board may permit Improvements (other than the Home and garage) to be constructed, installed and located within the set-back areas described above; provided, such permission must be in writing to be effective and can only be granted after notice to all adjoining and adjacent Lot Owners advising them of the proposed Improvement and affording them an opportunity to be heard with respect to the proposed Improvement.

(e) No tree may be cut down or removed from a Lot unless approved for removal by the Board, or if diseased.

2.03 APPROVAL OF ARCHITECTURAL CONTROL BOARD REQUIRED FOR ALL IMPROVEMENTS.

(a) No Home, garage or other Structure or Improvement of any kind shall be installed, erected, constructed or placed on any Lot (or altered or changed with respect to layout, location or exterior design, appearance, color or material composition) without: (1) prior submission of detailed plans to the Board appropriate for its review and approval; and (2) acquisition of prior written approval by the Board. Plans, to be considered appropriate for review by the Board, must include the following (unless the Board advises a Lot Owner in writing to the contrary): construction drawings, plans and specifications (prepared by a qualified home designer or architect if the improvement involves construction of a Home, garage or addition or change to either) showing dimensions, composition and color of exterior materials, together with paint color samples and brick/stone color samples, and equipment, if any; a plot plan showing the location of the Improvement with respect to set-backs from lot lines and other buildings and Improvements, finished grade elevations, topography, driveways, existing plantings and other data pertinent to such review by the Board as it may reasonably request; and a landscape plan prepared by a landscape architect. The Board shall consider the following factors and may deny or withhold approval of any proposed improvement if, in its sole judgment, anyone or more of the general purposes specified in Section 1.02 will not be satisfied: material composition and quality; exterior design, appearance and color; coordination with other existing or contemplated Improvements; location with respect to topography and existing surroundings, set-backs, finished grade elevations, access, drainage and plantings; and general aesthetics. ANY LOT OWNER WHO CAUSES OR ALLOWS ANY IMPROVEMENTS TO BE CONSTRUCTED, INSTALLED, PLACED OR ALTERED ON THE LOT WITHOUT PRIOR WRITTEN APPROVAL OF THE BOARD MAY BE REQUIRED TO REMOVE SUCH IMPROVEMENT IN ITS ENTIRETY AT THE LOT OWNER'S EXPENSE. Without intending to limit the generality of the foregoing, it is intended that the exterior color of any portion of a Home, garage or other Improvement may not be changed in any significant respect without the prior written approval of the Board.

(b) Notwithstanding the foregoing provisions and limitations of Section 2.03(a), each Home shall include the following minimum specifications: (1) exteriors of all natural building materials such as stone, brick, wood, concrete siding such as Hardi-Plank or other materials approved by the Board; (2) The front exterior elevation of the house and attached garage must consist of at least 50% of brick or stone. If a chimney is constructed it must be faced with brick or stone veneer; (3) finish roof construction of cedar shake shingles, tiles, cement tiles, 30-year dimensional shingles or other materials approved by the Board; and (4) front yard lamp post (with photoelectric cell) and mailbox post approved by the Board.

(c) Upon approval by the Board of the plans for the proposed Improvement and upon receipt of any necessary City and other governmental approvals or permits, construction or installation of the Improvement may commence and, once commenced, shall be completed as to all exterior items within twelve months following either acquisition of Board approval or

issuance of any required building permit by the City, whichever is later. The Board may, in its discretion, assess a fine of \$100 per day in the event the Lot Owner exceeds the twelve month deadline or extend such completion deadline up to an additional six months in the event it finds the delay has been caused primarily by factors beyond the control of the Lot Owner and his/her contractors.

(d) In the event the Board fails to act upon proposed plans within 30 days following written acknowledgment by the Board that it has received such plans and that they are adequate for purposes of its review or, in the event no suit to enjoin the erection, installation or change of the improvement or to require removal thereof has been commenced within one year following final completion thereof, no right shall exist to thereafter enforce these restrictions insofar as approval by the Board is required as to such particular matter.

(e) Except as noted above in subsection (d), any approval or permission of the Board under this Section, to be binding or effective, must be in writing signed by the President or Secretary of the Association. No oral statements, representations or approvals of the Board or any of its members or agents shall be binding on the Board under any circumstances, regardless of any reliance thereon by any Lot Owner.

(f) Within 90 days following construction or installation of any improvement, the Lot Owner shall, if requested by the Board, furnish an as-built survey showing the location of the Improvement.

2.04 LANDSCAPING & DRAINAGE.

(a) At time of commencement of landscaping, a complete landscaping plan for the entire Lot shall be submitted to the Board for its approval under Section 2.03 above. At its discretion, the Board may reject or modify the landscaping plans for overall compatibility with the Developer Landscaping. All landscaping shall be completed (in accordance with the plan approved by the Board) within 6 months following the issuance of the occupancy permit for the Home. The Board, at its discretion, may assess a fine of \$250 per month and prorated daily, for non-compliance with regards to this deadline. Each landscape plan shall include two 12' pine or spruce trees and a minimum of two 5" diameter shade trees to be approved by the Architectural Control Committee.

(b) Landscaping of mound system. Each landscaping plan shall include a landscape plan for the mound system.

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

(d) No fence, wall, hedge, or screen planting shall be installed unless in accordance with landscaping or other plans approved in advance by the Board under Section 2.03.

(e) Each Lot Owner is responsible for compliance with the Master Grading Plan as established by the City. The future owner/builder who constructs the residence will be responsible for siting the residence, rough and fine grading the building pad to comply with the Master Grading Plan. The Developer is not responsible for any topsoil.

(f) Each Lot Owner shall be responsible for compliance with the Stewardship Program as detailed in Section 1.12(b) and related exhibits to this Declaration.

2.05 DRIVEWAY.

Each Lot shall be improved by the Lot Owner with an asphalt, concrete or paving stone driveway extending from the street to the garage within 6 months following issuance of an occupancy permit for the Home. The Board, at its discretion, may assess a fine of \$250 per month, prorated daily, for non-compliance in regards to this deadline. A plot plan showing the location of the drive shall be submitted to the Board for its prior approval under Section 2.03 above.

2.06 CONSTRUCTION MATERIALS - STORAGE.

No building or construction materials shall be stored on any Lot outside of the Home or garage, other than during periods of actual construction or remodeling and then only for so long as may be necessary. Excess excavated material shall not be stored on any Lot during or after construction without the prior approval of the Board, unless required for back filling, finish grading, or landscaping. Each Lot owner shall be responsible for maintaining their Lot in a neat and orderly condition during construction, including cleanup of construction debris on their Lot and neighboring Lots and Common Areas. The Board reserves the right to undertake any cleanup they deem necessary and assess the Lot Owner for the costs associated with the cleanup.

2.07 WATER SUPPLY.

Each Home shall be serviced by an individual well to be constructed on the Lot.

2.08 SEWAGE DISPOSAL.

Each Home shall be serviced by an approved on-site waste disposal system.

2.09 GARBAGE DISPOSAL.

Each Home shall be equipped with a garbage disposal connected to the sewerage disposal system. No incinerator or incineration system for burning garbage or debris shall be used or permitted.

2.10 WIRES AND ANTENNA.

(a) All utility lines and wiring for gas, electric, telephone, and cable television service to a Home, garage or other improvement shall be installed underground, unless otherwise permitted by the Board prior to installation.

(b) No roof-top, tower-mounted or other external antenna or satellite dish for television or radio reception or for other electronic transmission or reception shall be erected or used without the prior written approval of the Board.

2.11 SIGNS, MAILBOXES AND LAMPOSTS.

(a) No sign or banner of any kind shall be placed or displayed to public view on any Lot, except: (1) one sign of not more than 6 square feet advertising the Property for sale; (2) one standard sign (showing the Lot Owner's name) as may be approved by the Board for uniform use in terms of size, design, appearance and location for each Lot in the Subdivision; and (3) such signs as the Developer or Board may approve for placement on those Lots affected by the Developer Landscaping for the purpose of advertising the Subdivision.

(b) No mailbox or lamppost shall be installed unless the location, size, materials and appearance are approved in writing by the Board in accordance with Section 2.03. Lamppost shall be installed at the time owner receives occupancy permit.

Each Lot Owner will be responsible to install a front yard light post and lantern in a style and from a manufacturer selected by Developer. 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 Board. The light post and lantern must be (1) located within ten (10) feet of the street property line; (2) adjacent to the driveway; (3) elevated to a height of at least 10 feet; and (4) 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 Board that such Light post and lantern is connected to electrical service (paid for by such Owner). No owner shall tamper with such lantern controls.

Developer will install a mailbox and mailbox support in a style and from a manufacturer selected by Developer. 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.

In making determinations regarding replacement of mailboxes or yard light posts the Board 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.

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 above may be assessed to an offending Owner as a special assessment on such Lot under Section 3.10b.

If Developer 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 Developer to perform the same action on any other Lot, for any other Owner, or on any subsequent occasion.

THE ASSOCIATION

3.01 CREATION OF ASSOCIATION.

(a) The Developer hereby organizes and establishes a non-profit, non-stock incorporated homeowner's association to be known as "Hawks Glen Homeowners Association, Inc." with all rights, powers, privileges and obligations as provided in this Declaration.

(b) The Association shall exist during the term(s) of this Declaration and shall, to the extent allowed by law, automatically terminate upon termination of this Declaration.

3.02 MEMBERSHIP.

(a) Each Lot Owner shall automatically be a member of the Association and shall be entitled to one membership and one vote for each Lot owned, with ownership of a Lot being the sole qualification for membership. The membership in the Association appurtenant to a Lot shall be owned jointly and severally by all Co-Owners of the Lot, regardless of the form of tenancy, estate, or interest in the Lot.

(b) Association membership and voting rights shall be appurtenant to each Lot and shall not be assigned, conveyed or transferred in any way except upon transfer of an ownership interest of the Lot and then only to the transferee, nor shall membership or voting rights be retained except upon retention of an ownership interest in the Lot. Any attempt to make a prohibited transfer or retention of such rights shall be null and void.

(c) Notwithstanding any provision in this Declaration to the contrary, the Developer shall be entitled to one membership and one vote for each Lot owned by the Developer.

3.03 VOTING.

(a) The vote appurtenant to each Lot shall be cast as a whole (in person or by proxy) by the Lot Owner or any Co-Owner. Fractional votes will not be allowed; and if Co-Owners of a Lot do not agree on how the vote shall be cast or if a fractional vote is attempted, the right to vote on the matter in question shall be forfeited by such Owners. The Association may treat any Co-Owner of a Lot or the proxy of any such Co-Owner as duly authorized to vote for all Co-Owners of that Lot.

(b) Quorum: A quorum for voting purposes shall consist of fifty percent (50%) or more of the votes entitled to be cast.

(c) There shall be no cumulative voting for election of officers or on any other matters. All decisions and actions of the Association except as otherwise specifically provided for in this Declaration, shall be by a majority of the votes present and entitled to be cast.

(d) A Lot Owner shall not be entitled to vote on a matter if a lien exists for any General or Special Assessment against the Lot or if there are any other amounts due from the Lot Owner.

(e) Proxies shall be valid only for the particular meeting or time period designated in the proxy, unless sooner revoked, and must be filed with the Secretary at or before the appointed time of the meeting.

3.04 MEMBERSHIP LIST: NOTICES.

(a) The Association shall maintain a current Membership List. Each Lot Owner shall furnish the information necessary for the Association to maintain such Membership List.

(b) All notices required to be given to a Lot Owner shall be deemed to have been duly given: at the time of personal delivery to the Lot Owner or the Home of the Lot Owner; or 48 hours after mailing within the State of Wisconsin by regular or certified mail to the Lot Owner's mailing address shown in the Membership List. Notice to one Co-Owner of a Lot shall be deemed effective notice to all other Co-Owners of such Lot.

3.05 ASSOCIATION MEETINGS.

(a) Written notice of all meetings of the Association stating the time, place, and purpose for which the meeting is called shall be given by the President or Secretary to each Lot Owner not less than 5 nor more than 30 days prior to the date of such meeting; provided, however, that notice of any meeting by a Lot Owner may be waived in writing before or after the meeting.

(b) The annual meeting of the Association shall be held in May of each year for the purpose of electing officers and transacting any other business authorized to be transacted by the Association. The Board shall select the specific date, time and place of the annual meeting for a given year and shall furnish written notice to each Lot Owner in accordance with Section 3.05(a). The calendar year shall be the fiscal year of the Association.

(c) Special meetings of the Association shall be held whenever called by the President or two officers; however, such meetings must be called upon receipt by the President of a written request signed by Owners with one-third or more of all votes entitled to be cast.

(d) A quorum for meetings necessary to conduct Association business shall consist of Lot Owners, present in person or by proxy, representing a majority of all votes entitled to be cast.

(e) The act of a majority of the votes at any meeting at which a quorum is present shall be the act of the Association, unless a greater percentage is required under this Declaration.

(f) If a quorum is not present at a meeting, no business of the Association shall be transacted; however, the majority of votes present (in person or by proxy) may adjourn the meeting from time to time without further notice if such adjourned meeting at which a quorum is present is held within 15 days of the meeting originally noticed. If a quorum is present at such an adjourned meeting, any business may be transacted which might have been transacted at the meeting as originally noticed.

3.06 POWERS OF THE ASSOCIATION.

(a) Without limitation, the Association shall have the following powers in addition to any others, which may be necessary or incidental to performance of all duties or powers of the Association specified in this Declaration:

- (1) To levy and enforce payment of General and Special Assessments on the Lots and against Lot Owners;
- (2) To enforce this Declaration;
- (3) To purchase, sell and convey Lots (including the Improvements thereon) incident to foreclosure of a lien for any assessments and to acquire real estate as additional Common Area;
- (4) To enter and execute contracts, deeds, mortgages and documents on behalf of the Association which relate to any Common Area or Improvements therefore;
- (5) To incur indebtedness on behalf of the Association and to execute drafts and other negotiable instruments;
- (6) To employ the services of any person, firm, or corporation to maintain the Common Areas, or to construct, install, repair or rebuild improvements thereon;
- (7) To acquire, sell, transfer or exchange goods, equipment and other personal property or fixtures in the name of the Association for the operation of the Association;
- (8) To commence, prosecute, defend or be a party to any suit, hearing or proceeding (whether administrative, legislative or judicial) involving the

enforcement of this Declaration or otherwise involving the exercise of any powers, duties or obligations of the Association;

- (9) To adopt Rules and Regulations as hereinafter defined for the management, operation, use and enjoyment of the Common Areas, including fines or penalties which may be enforceable by Special Assessment against any Lot Owner or his/her family or guests violating such Rules and Regulations;
- (10) To manage and control the Common Areas and exercise all other powers necessary to maintain the Common Areas, administer the Stewardship Program and operate the Association for the mutual use and enjoyment of all Lot Owners; and
- (11) To purchase insurance as determined by the Board for the Common Areas.

(b) The President, together with one other officer of the Association, is empowered to negotiate, execute and enter contracts, agreements and other undertakings or documents of any kind on behalf of the Association necessary or incidental to exercise of any powers or obligations of the Association or of the Board under this Declaration.

3.07 ARCHITECTURAL CONTROL BOARD.

(a) All Officers of the Association then in office shall be members of the Architectural Control Board and no other person may be a member of the Board. Each member of the Board shall serve and hold office until a successor is elected or appointed to such office.

(b) The Board shall initially consist of person(s) appointed by Developer as President, Secretary, Treasurer and Vice President of the Association to hold office until successors are appointed by Developer or elected by the Association. Except for officers appointed by Developer, a person must be a Lot owner or Co-Owner of a Lot in order to be eligible to serve as an officer and member of the Board.

(c) Any officer and member of the Board (other than an officer appointed by Developer) may be removed from office with or without cause at any regular or special meeting of the Association by a majority vote of all Lot Owners and a successor may then be elected at that meeting to fill the vacancy thus created or at a special meeting thereafter called for that purpose. Any officer appointed by Developer may be removed at any time by Developer and a successor may then be appointed by Developer.

(d) Vacancies in any officer position and on the Board (caused other than by removal under Section 3.07 (c) above) and newly created officer positions resulting from an increase in the number of officers shall be filled by a majority vote of the officers then in office and each person so elected shall serve until a successor is either appointed by Developer or elected at the next annual meeting of the Association.

(e) An annual meeting of the Board shall be held immediately after the annual meeting of the Association. No notice of the annual meeting of the Board shall be required.

(f) Regular meetings of the Board shall be held at such times and places as the Board determines by resolution to be appropriate and no notice of regular meetings shall thereafter be required.

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

(h) Before, at, or after any meeting of the Board, any officer may (in writing) waive notice of such meeting and such waiver shall be deemed equivalent to the giving of notice.

(i) For all meetings of the Board, a quorum necessary to transact business shall consist of a majority of the officers and the act of such majority shall be the act of the Board. If there is less than a quorum present at any meeting of the Board, no business shall be transacted; however, the majority of those present may adjourn the meeting from time to time without further notice if such adjourned meeting at which a quorum is present is held within 15 days of the meeting originally scheduled. If a quorum is present at an adjourned meeting, any business may be transacted which might have been transacted at the meeting as originally noticed.

(j) Any action of the Board authorized under this Declaration may be taken upon the unanimous consent of all officers without a meeting.

(k) The Board may require that some or all officers and/or employees of the Association handling or responsible for Association funds furnish adequate fidelity bonds, the premiums for which shall be paid for by the Association as a common expense.

3.08 OFFICERS.

(a) The Officers of the Association shall be:

(1) A President, who shall: be the chief executive officer of the Association and a member of the Board; be responsible for the proper execution of the business and affairs of the Association (subject to the control of the Board); preside at all meetings of the Association and the Board; have the authority to appoint various committees; have all the general powers and duties usually vested in the Office of President, as well as such other powers and duties as may be prescribed from time to time by resolution of the Association.

(2) A Secretary, who shall: be a member of the Board; keep the minutes of all meetings of the Board and of the Association; have charge of all the Association's books and records; maintain the Membership List and keep it current; have charge of delivering all notices and approvals on behalf of the Board and the Association; and, in general, perform all duties incident to

the office of Secretary, together with such other powers and duties as may be prescribed from time to time by resolution of the Association.

- (3) A Treasurer, who shall: be a member of the Board; be responsible for the Association's funds and assets; keep complete and accurate accounts of all receipts and disbursements, financial records, and books of accounts; deposit all monies in the name and to the credit of the Association in depositories as may from time to time be designated by the Board; assess and collect all General and Special Assessments made by the Board; and exercise such other powers and duties as may be prescribed from time to time by resolution of the Association.
- (4) One or more Vice Presidents (not to exceed four at anyone time), the number of which shall be determined by resolution of the Association; however, it is not required that the Association have one or more Vice Presidents. A Vice President, in addition to serving on the Board, shall have such other powers, duties and restrictions as may be prescribed from time to time by resolution of the Association.

(b) All officers shall be elected annually by the Association if not subject to appointment by Developer. Each officer shall hold office until a successor is duly elected or until death, resignation, or removal, whichever first occurs. No person may hold two or more offices at anyone time, except that officers appointed by Developer may hold any number of offices.

3.09 MANAGEMENT OF ASSOCIATION BY THE BOARD.

(a) The Association and its business, activities and affairs shall be managed by the Board (which shall consist of all the officers of the Association). The Board shall exercise and perform, in addition to the powers, duties and obligations specified in this Declaration for the Board, all powers, duties and obligations of the Association (except to the extent this Declaration may otherwise expressly require the prior vote of the Association on a particular matter). Notwithstanding any other provision of this Declaration to the contrary, Developer shall be entitled to appoint all officers of the Association until the time Control Transfer occurs, at which time, all officers of the Association shall be elected by the members of the Association.

(b) The Board may appoint committees consisting of one or more Lot Owners to make recommendations to the Board or the Association on any matter.

(c) No person shall receive any payment for services rendered as an officer of the Association or as a member of any committee unless specifically authorized by prior resolution of the Association. The Board may reimburse out-of-pocket expenses incurred by an officer or committee member in the performance of his/her duties.

(d) No member of any board or committee or officer of the Association shall be liable to any Lot Owner or to any other party including the Association for any loss or damage suffered or claimed on account of any act, omission, error or negligence of such board or

committee member or officer, provided such person acted in good faith, without willful or intentional misconduct.

(e) All decisions of the Board on any matter (including, without limitation, decisions under Section 2.03) shall be enforceable against any Lot Owner if made in a good faith exercise of the judgment or discretion of its members so long as such decision is not clearly in conflict with the express provisions of this Declaration. Any Lot Owner or other person seeking to avoid, set aside or challenge any such decision of the Board shall have the burden of proof to establish that such standards were not met at the time the decision was made. The Association shall defend and indemnify the Board in regard to any action brought so long as the Board acted in a good faith exercise of its judgment or discretion.

3.10 COMMON EXPENSES AND ASSESSMENTS AGAINST LOTS AND LOT OWNERS.

(a) The Board shall pay or arrange for payment for all costs, expenses and liabilities incurred by the Association out of the proceeds of assessments, which shall be made against the Lot Owners and their Lots. The Board may, at any time, levy assessments for such purposes against the Lot Owners and their Lots, other than the Developer and Lots owned by the Developer. The Developer shall not be responsible at any time for any assessments, General, Special or otherwise.

(b) "Special Assessments" may be made and levied by the Board against a particular Lot Owner (other than the Developer) and his, her or their Lot (without levying against other Lots) for:

- (1) Costs and expenses (anticipated or incurred) for cleanup or repair of damage to Common Areas caused by or at the direction of the Lot Owner, Lot Owner's builder, landscape contractor or the family or guests of the Lot Owner;
- (2) Costs, expenses and actual attorneys' fees incurred in, or in anticipation of, any suit, action or other proceeding to enforce this Declaration against the Lot Owner;
- (3) Interest due on General or Special Assessments; and
- (4) All other costs and expenses anticipated or incurred by the Association, which are subject to Special Assessments as provided under this Declaration.

(c) "General Assessments" may be made and levied by the Board equally against each Lot Owner (other than the Developer) and his, her or their Lot for the following "Common Expenses" which may be anticipated, incurred or paid by the Association for:

- (1) Maintenance, repairs, upkeep or operation of the Developer Landscaping and Common Areas and any additional Common Areas (such as any contiguous real estate) as may be acquired by the association;
- (2) Any insurance maintained by the Association;
- (3) Taxes, assessments and charges of any kind made or levied by a governmental authority against the Association or upon any property of the Association;
- (4) All costs and expenses for the operation and administration of the Association, including legal, accounting and management fees and other costs incident to the exercise of any of its powers or obligations;
- (5) Costs and expenses for additional improvements to Common Areas beyond those installed by Developer;
- (6) All items subject to Special Assessment which have not been collected from a Lot Owner at the time payment of such item is due, provided that upon collection of the Special Assessment from that Lot Owner, all other Lot Owners shall receive an appropriate adjustment, reimbursement or credit on future General Assessments, as the Board may determine, for payments made under this paragraph;
- (7) All damages, costs, expenses and attorney fees incurred in, or in anticipation of, any suit or proceeding (whether administrative, legislative or judicial) which are not otherwise collected by Special Assessment;
- (8) Costs and expenses of services, if any, made available to all Lots and/or for any Common Areas;
- (9) All other costs and expenses declared to be common expenses under this Declaration.

The General Assessments for all common expenses shall be levied equally against each Lot not owned by the Developer.

(d) The Association shall maintain separate books and records for General and Special Assessment accounts of the Lot Owners, as may be necessary, provided that all funds received from either assessment may be commingled and thereafter disbursed to pay any costs or expenses incurred by the Association which would be subject to General or Special Assessment.

(e) The Board shall determine the estimated expenses of the Association and prepare an annual operating budget in order to determine the amount of the annual General Assessments necessary to meet the estimated common expenses of the Association for the ensuing year and shall furnish a copy to each Lot Owner or one of the Co-Owners of the Lot.

3.11 PAYMENT OF ASSESSMENTS.

(a) Each Lot Owner shall promptly pay, when due, all General and Special Assessments levied by the Board against such Owner and his, her or their Lot, together with all costs, expenses and reasonable attorney fees incurred by the Association in collection of any delinquent assessment(s). All assessments shall become due as the Board may determine appropriate (in a lump sum or in installments with or without interest). Time is of the essence with respect to all payments.

(b) All Co-Owners of a Lot shall be jointly and severally liable for all General and Special Assessments levied against the Lot, regardless of the type of tenancy, estate or interest in the Lot (whether as joint tenants, tenants-in-common, land contract purchaser(s) or seller(s), or otherwise).

(c) Notwithstanding any other contrary provisions of this Declaration and until the year of Developer Control Transfer, only a General Assessment equal to \$1,200 for each Lot shall be due and payable annually, on January 1 of each year, by each Lot Owner, other than the Developer. A late fee of \$25.00 shall be assessed against each Lot Owner for each month or part of a month such Lot Owner shall be delinquent in the payment of the annual payment. The amount of the General Assessment, as well as the due date for payment thereof may be adjusted from time to time as determined by the Board, but shall not be adjusted until Developer Control Transfer as herein defined. In addition, an initial General Assessment of \$1,000 is due at closing to fund operating expenses of the Association.

3.12 DELINQUENT ASSESSMENTS: INTEREST, LIEN AND COLLECTION.

(a) All General and Special Assessments which are not paid when due shall bear interest at 12 percent per annum or, if such rate is not allowed by law, at such maximum rate as may then be permitted by law until the assessment is paid in full; shall constitute a lien on the Lot; and shall be collectible and enforceable by the Board (in its own name or the name of the Association) by suit against the Lot Owner, by foreclosure of the lien, and/or in any other manner or method provided under this Declaration or laws of the State of Wisconsin. The lien granted hereunder shall also cover and include all interest accruing on delinquent assessments, plus costs, expenses and attorneys' fees for collection. The Association may record a notice of lien against any Lot for delinquent Assessments; however, no such recording shall be a prerequisite to enforcing the lien created by this Declaration.

(b) The Association (through the Board) shall have the exclusive right and power to collect or enforce collection of all General and Special Assessments levied by the Board and shall further have the exclusive right to bring any and all actions and proceedings for the collection thereof and/or the enforcement of liens arising therefrom. The Association may bring an action against any Lot Owner personally to collect such assessments and/or to foreclose the lien for such assessments against the Lot (in the same manner and method as an action to foreclose a real estate mortgage). The Board shall have the right at any time to notify all Lot Owners within the Subdivision of the delinquency of any Lot Owner.

3.13 RULES AND REGULATIONS.

(a) The Association may from time to time adopt or change rules or regulations (hereafter "Rules and Regulations") governing the operation, maintenance and use of the Common Areas by the Lot Owners and their respective families and guests. Such Rules and Regulations shall be designed to facilitate and encourage the peaceful use and enjoyment of the Common Areas by the Lot Owners and their respective families, without unduly interfering with the peaceful use and enjoyment of the surrounding Lots. All Lot Owners, lessees, licensees, invitees, other occupants, and guests of any Lot in the Subdivision shall abide by all such Rules and Regulations. Permitted uses of the Common Areas are set forth in Section 1.13.

(b) A violation of any of the Rules and Regulations shall be a violation of this Declaration and may be enforced in the same manner as any other term or provision of the Declaration or as otherwise may be designated in the Rules and Regulations, including without limitation the imposition of forfeitures, penalties, or other charges against the Lot Owner, which shall be collectible by Special Assessment against the Lot and Lot Owner.

3.14 LOT OWNER'S LACK OF AUTHORITY TO BIND ASSOCIATION.

No Lot Owner (other than the officers of the Association) shall have any authority to act for the Association or the other Lot Owners, as agent or otherwise, nor to bind the Association or the other Lot Owners to contracts, negotiable instruments or other obligations or undertakings of any kind.

3.15 SERVICE OF PROCESS.

Service of process upon the Association for all matters shall be made upon the President of the Association or such legal counsel as the Association may designate to receive service of process by recording such designation with the Register of Deeds for Ozaukee County, Wisconsin.

3.16 ENFORCEMENT OF DECLARATION: NO REVERSION OF TITLE.

(a) The Association (through the Board) shall have the exclusive right to enforce, by proceedings at law or in equity, all the terms, conditions, and provisions of this Declaration and any Rules and Regulations adopted by the Association, except that any Lot Owner may proceed, at such Owner's expense and subject to the limitations of Section 2.03(c), to enforce any such terms, conditions or provisions (other than for collection of assessments against Owners of other Lots) if the Association fails to take such action within 60 days following a written request by such Lot Owner for the Association to do so and the Association has determined at a meeting duly called for such purpose that a violation of the terms, conditions or provisions of this Declaration and any rule or regulation adopted by the Association has occurred by an Owner of a Lot. Any Lot Owner violating any of the terms, conditions or provisions of this Declaration or any Rules and Regulations shall pay all costs, expenses and actual attorneys' fees incurred by the Association or by a prosecuting Owner. Neither the Association nor the Board shall be subject to

any suit or claim by any Lot Owner for failure of the Association or the Board to take any action requested by such Lot Owner against another Lot Owner.

(b) Each remedy set forth in this Declaration and/or in Rules and Regulations shall be in addition to all other rights and remedies available at law or in equity. All such remedies shall be cumulative and the election of one shall not constitute a waiver of any other. Any forbearance or failure of the Association or the Board to exercise any such right or remedy for any violation shall not be a waiver of such right or remedy under any circumstances (except as provided in Section 2.03(c) unless a written waiver is obtained from the Board).

(c) Under no circumstances shall any violation of this Declaration or of any of the Rules and Regulations result in any reverter or reversion of title to any Lot.

MISCELLANEOUS

4.01 RESERVATION BY DEVELOPER OF EASEMENTS AND RIGHT TO GRANT EASEMENTS.

(a) Until such time as Developer has completed required Improvements in the Subdivision, Developer shall have, and may grant to the City and others, a temporary construction easement on, over, through and across each Lot as may be necessary, appropriate or convenient to construct and install required Improvements in the Subdivision and other public or private facilities for the Subdivision. In connection with such easements, Developer or its grantees may (i) fill (with excavated or other non-environmentally hazardous materials) and cut Lots to rough grade consistent with the Master Grading Plan; (ii) grant drainage easements over portions of the Lot as may be required by the City's engineer so long as the same does not significantly affect the available building location; and (iii) remove trees, plants and other materials as necessary, appropriate or convenient for any of the foregoing.

(b) Until such time as Developer has conveyed legal title to all Lots platted or to be platted in the Subdivision to persons other than a successor-Developer, Developer may grant to the City and/or to any public or private utility company on, over, through and across those portions of any Lot in the Subdivision within 10 feet of any lot line for purposes of allowing the City or utility company to furnish gas, electric, water, sewer, cable television or other utility service to any Lot(s) or through any portions of the Subdivision or for purposes of facilitating drainage of storm or surface water within or through the Subdivision. Such easements may be granted by Developer, in its own name and without the consent or approval of any Lot Owner.

4.02 SEVERABILITY.

The invalidity or unenforceability of any term, condition or provision of this Declaration shall in no way affect the validity or enforceability of any other term, condition, or provision of this Declaration, all of which shall remain in full force and effect.

4.03 COVENANTS RUN WITH LAND.

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

4.04 AMENDMENTS TO DECLARATION.

This Declaration may be amended by recording in the office of the Register of Deeds for Ozaukee County, Wisconsin, a document to that effect executed by the owners of at least 67 percent of all Lots in the Subdivision, and their mortgagees, with all signatures duly notarized. Such amendment shall become effective only upon recording. Notwithstanding the foregoing provisions of this Section 4.04, Developer may amend this Declaration without the consent of any of the Lot Owners solely to affect an expansion of the Subdivision to include contiguous parcels of real estate as may be acquired by Developer from time to time.

4.05 TERM OF DECLARATION.

This Declaration (and any amendments) shall be binding for a period of 20 years (from the date the Declaration is recorded) upon all Lot Owners and any other persons claiming under or through the Developer. Upon the expiration date of such initial 20-year period, this Declaration shall be automatically renewed for a successive period of ten (10) years and thereafter for successive periods of ten (10) years upon the expiration date of the prior renewal period, unless there is recorded an instrument (executed by the Owners of at least 75 percent of all Lots in the Subdivision and their mortgagees) terminating this Declaration, in which event this Declaration shall terminate upon the recording of such instrument of termination or expiration of the initial 20-year term, whichever occurs later.

4.06 DISCLAIMER.

Notwithstanding any other provision(s) of this Declaration, Developer is under no obligation to any Lot Owner to develop or plat at any time any portion(s) of the Subdivision not already platted as of the date of recording this Declaration. If Developer fails to cause all such unplatted portions of the Subdivision to be duly platted within 5 years from the date of recording of this Declaration, Developer's exclusive right to appoint the officers of the Association shall terminate.

4.07 INTERPRETATION.

These Declarations shall be construed and interpreted in favor of restricting the use of each Lot consistent with the purposes hereof and any ambiguity shall be resolved against any Lot Owner who installs any Structure or engages in any activity not clearly authorized under these Declarations or approved in writing by the Board.

EXHIBIT A

Legal Description of Hawks Glen

A Re-division of Lot 1 of Certified Survey Map No. 3650 and lands in the Northwest 1/4, Southwest 1/4 and the Southeast 1/4 of the Northwest 1/4 of Section 16, Township 9 North, Range 21 East, City of Mequon, Ozaukee County, Wisconsin bounded and described as follows:

Beginning at the Northwest corner of said Northwest 1/4 Section; thence North $87^{\circ}52' 14''$ East, 725.43 feet along the North line of said 1/4 Section; thence South $1^{\circ}28'51''$ East, 40.00 feet; thence North $87^{\circ}52' 14''$ East, 584.00 feet parallel to the North line of said 1/4 Section to a point; thence South $1^{\circ}28'51''$ East, 1,954.08 feet to a point; thence North $87^{\circ}55'51''$ East, 1,309.18 feet to a point; thence South $1^{\circ}28'27''$ East, 665.15 feet parallel to the East line of said 1/4 Section to a point on the South line of said 1/4 Section; thence South $87^{\circ}57'03''$ West, 2,618.20 feet along the South line of said 1/4 Section to the Southwest corner of said 1/4 Section; thence North $1^{\circ}29'15''$ West, 2,656.94 feet along the West line of said 1/4 Section to the point of beginning.