



WC3529204-005

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Amendment to the Declaration of Restrictions and Covenants for Mission Prairie Subdivision

Document Number Document Title

3529204

REGISTER'S OFFICE
WAUKESHA COUNTY, WI
RECORDED ON

11-28-2007 10:23 AM

MICHAEL J. HASSLINGER
REGISTER OF DEEDS

REC. FEE: 12.00
REC. FEE-CO: 5.00
REC. FEE-ST: 2.00
TRAN. FEE:
TRAN. FEE-STATE:
PAGES: 5

Recording Area

Name and Return Address

Siepmann Realty Corporation
W240 N1221 Pewaukee Road
Pewaukee, WI 53072

Parcel Identification Number (PIN)

19/5

Drafted by: Mission Properties LLC

THIS PAGE IS PART OF THIS LEGAL DOCUMENT-DO NOT REMOVE

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document. Note: Use of this cover page adds one page to your document and \$2.00 to the recording fee. Wisconsin Statutes, 59.517.WRDA 2/96

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**AMENDMENT TO THE
DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
MISSION PRAIRIE SUBDIVISION**

This Amendment is made as of the 6th day of November, 2007.

WITNESSETH:

WHEREAS, a Declaration of Restrictions and Covenants for Mission Prairie subdivision was established by Mission Properties II LLC and recorded in the office of the Register of Deeds for Waukesha County, Wisconsin on January 9, 2007 as document No. 3512872 (hereinafter the "Declaration"); and

WHEREAS, the following property is subject to the Declaration:

Lots 1 through 9, inclusive, and outlots 1 and 2 of Mission Prairie, being a part of the Northwest ¼ of, Section 7, Township 7 North, Range 18 East, City of Delafield, Waukesha County, Wisconsin; and

WHEREAS, pursuant to the provisions of the Declaration, the Declaration may be modified or amended at any time by written document executed by the owners of lands having at least 66% of the votes in the Mission Prairie Homeowners Association, Inc., and approved by the developer of Mission Prairie so long as it owns any of the lots in Mission Prairie; and

WHEREAS, Mission Properties II LLC is the Developer of Mission Prairie and owns all of the lots there in and 100% of the votes in the Mission Prairie Homeowners Association, Inc. and therefore has the right, power and authority to modify and amend the Declaration; and

WHEREAS, paragraph B.9. of the Declaration provides that "no more than (1) gazebo shall be permitted on a lot, and no other outbuildings shall be permitted. The exterior design of each gazebo, as well as its location must be approved by Developer in writing prior to application for a building permit"; and


WHEREAS, Developer desires to allow for the construction of a pool house in addition to a gazebo on each lot in Mission Prairie.


NOW THEREFORE, Mission Properties II LLC does hereby establish and declare that paragraph B.9. of the Declaration shall be modified and amended so as to provide as follows:

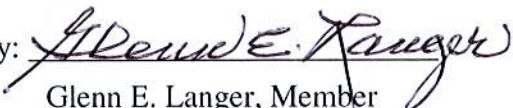
“No more than one (1) gazebo and one (1) pool house shall be permitted on a lot, and no other outbuildings shall be permitted. The exterior design of each gazebo and pool house, as well as their location must be approved by Developer in writing prior to application for a building permit. Pool houses shall not exceed two hundred (200) square feet in floor area, shall only be constructed with the exterior material specified in paragraph B.1. (c) hereof and shall be compatible in appearance and design with the main building on the lot.”

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the day and date first set forth above.

MISSION PROPERTIES II LLC

By: 
Richard L. Schwaab, Member

By: 
Thomas L. Shriner Jr., Member

By: 
Glenn E. Langer, Member

By: 
William Groskopf, Member

STATE OF WISCONSIN)

) SS

WAUKESHA COUNTY)

Personally came before me this 6th day of November, 2007, the above-named Richard L. Schwaab, a Member of Mission Properties II LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.



[Handwritten signature]

Notary Public, Waukesha County,
State of Wisconsin

My Commission Expires: 3/6/11

STATE OF WISCONSIN)

) SS

WAUKESHA COUNTY)

Personally came before me this 13th day of November, 2007, the above-named Thomas L. Shriner, Jr., a Member of Mission Properties II LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.



[Handwritten signature]

Notary Public, Waukesha County,
State of Wisconsin

My Commission Expires: 3/6/11

STATE OF WISCONSIN)

) SS

WAUKESHA COUNTY)

Personally came before me this 6th day of November, 2007, the above-named Glenn E. Langer, a Member of Mission Properties II LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.



[Handwritten signature]

Notary Public, Waukesha County,
State of Wisconsin

My Commission Expires: 3/6/11

STATE OF WISCONSIN)

) SS

WAUKESHA COUNTY)

Personally came before me this 6th day of November, 2007, the above-named William Groskopf, a Member of Mission Properties II LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.



[Handwritten Signature]

Notary Public, Waukesha County,

State of Wisconsin

My Commission Expires: 3/6/11

This instrument drafted

By Mission Properties, LLC

William Groskopf

**DECLARATION OF RESTRICTIONS
AND COVENANTS FOR
MISSION PRAIRIE SUBDIVISION**

Revised 11-20-06

MISSION PRAIRIE SUBDIVISION
DECLARATION OF RESTRICTIONS AND COVENANTS
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**DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
MISSION PRAIRIE SUBDIVISION**

KNOW ALL PERSONS BY THESE PRESENTS: that MISSION PROPERTIES II LLC is a limited liability company duly organized and existing under and by virtue of the laws of the State of Wisconsin, (herein referred to as "Developer, "). Developer is the owner of MISSION PRAIRIE, being a subdivision of the NW 1/4 of Section 7, Township 7 North, Range 18 East, City of Delafield, Waukesha County, Wisconsin, (herein referred to as "MISSION PRAIRIE") and intends to establish a general plan for the use, occupancy and enjoyment of MISSION PRAIRIE, and in furtherance of the general purpose set forth in Section A, below, does hereby declare for the mutual benefit of present and future owners of lands in MISSION PRAIRIE (herein referred to individually as "Owner" and collectively as "Owners") that MISSION PRAIRIE shall be subject to the following restrictions, provisions, conditions, obligations and easements.

A. GENERAL PURPOSE

The general purpose of this Declaration is to promote the harmonious development of MISSION PRAIRIE into a residential district of the highest quality while protecting the natural beauty and quality of the environment. In addition, this Declaration is to help insure that MISSION PRAIRIE will become and remain an attractive community; to preserve the open space within MISSION PRAIRIE; to guard against the erection therein of poorly designed or proportioned structures; to obtain harmonious use of materials; to insure the highest and best residential development of the property; to encourage and secure the erection of attractive homes in appropriate locations; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and in general, to provide adequately for high quality improvements while remaining sensitive to preserving the natural environment and thereby maintain and enhance the value of investments made by purchasers of properties in MISSION PRAIRIE.

B. BUILDING RESTRICTIONS

1. (a) All lots in MISSION PRAIRIE are restricted to the erection of a one story, story and one-half, or two story single family residence building with a minimum living space (without regard for basement level areas) of three thousand (3,000) square feet and a maximum living space of eight thousand (8,000) square feet and with an attached garage which will accommodate at least three cars.

(b) The attached garage must be attached to the residence directly or by breezeway, or built into the basement of the residence, and must be constructed at the same time as the residence. The maximum size of the garage shall conform to City of Delafield (hereinafter referred to as the "City") ordinances. Garage entrances must be on the side or rear of the building.

(c) The exterior walls of the residence and attached garage must be constructed of brick, stone, stucco, solid wood siding, Hardiplank siding or its equivalent. Any exposed basement or foundation wall must be covered entirely with full-size brick, natural stone or stucco. Siding materials such as aluminum, vinyl, steel, pressed board, Masonite or plywood will not be allowed.

(d) For a residence having one or more fireplaces, the primary fireplace must be of full masonry construction on both the interior and exterior, including the chimney. Chimneys of secondary fireplaces, if any, shall be either of full masonry construction or have a masonry veneer. The masonry veneer of secondary chimneys which project through the roof may consist of cultured stone or thin brick if specifically approved in writing by Developer. All chimneys must have caps of concrete or stone.

(e) All two story and story and one-half residence roofs shall have a minimum pitch of eight feet in height for each twelve feet in length (8/12), except for rear dormers on a story and one-half residence. All one-story residence roofs shall have a minimum pitch of ten feet in height for each twelve feet in length (10/12). A lower minimum roof pitch may be allowed in special circumstances if approved in writing by Developer. All roofs having an appropriate pitch shall be covered with either wood shakes, wood shingles or dimensional fiberglass 50 year shingles of the type and quality of GAF Ultra, Landmark 50, or their equivalents; provided, however, Developer shall have the right to approve other roofing materials if they are of comparable quality or better suited to the approved building design.

(f) The residence and attached garage must be constructed in accordance with the Design/Layout Plan (defined below) which has received Approval (defined below) and must be completed within twelve (12) months of the date the building permit is issued by the City. A sodded or seeded lawn and a driveway paved with concrete, stamped concrete, asphalt or brick pavers must be installed within six (6) months of the date that the occupancy permit is issued by the City.

(g) The minimum setbacks and offsets shall conform to the building envelopes depicted on the recorded final plat of MISSION PRAIRIE.

(h) Only one residence may be erected on a lot.

2. Each Owner must obtain Approval of the plans and specifications outlined below (referred to hereinafter as "Design/Layout Plan"), prior to application for a building permit. For purposes of this Declaration, the term "Approval" shall mean the prior written approval of Developer. The Developer may assign its Approval right to the Association (as defined in Section C, below) by a written instrument recorded with the Register of Deeds for Waukesha County, Wisconsin.

(a) Before submitting Final Design/Layout Plans each Owner must submit at least one preliminary plan for review by Developer.

(b) Each Owner must submit to Developer in connection with its application for Approval of the Design/Layout Plan three complete sets of the following final plans (2-full-size sets and 1-11" x 17" reduction) which shall incorporate the plan changes, if any, required by Developer as noted in its review of the preliminary plans:

- (i) Exterior elevations drawn to scale (1/4" = 1' minimum)
- (ii) Floor plans drawn to scale (1/4" = 1' minimum)
- (iii) Identification of all exterior building materials;
- (iv) Stake-out survey showing the proposed location of the building, existing and proposed yard grades and location of silt fences.
- (v) The square footage of living area by floor.
- (vi) Other things that may be required from time to time as set forth in the Guidelines (defined below).

(c) Approval of the Design/Layout Plan shall be based upon the building and use restrictions contained herein and the **Guidelines for Plan Approval for Mission Prairie Subdivision** (herein referred to as the "**Guidelines**"), as may be adopted from time to time by Developer. The Guidelines in effect as of the date of execution of this Declaration are attached hereto as Exhibit A. Developer may assign its right to adopt **Guidelines** to the Association by a written instrument recorded with the Register of Deeds of Waukesha County, Wisconsin. **Owner shall obtain and review the Guidelines from Developer prior to applying for Design/Layout Plan Approval.**

(d) Design/Layout Plan Approval may be withheld if the design is too similar in appearance to other residences in close proximity.

(e) If in the opinion of Developer the submitted plans do not comply with the Mission Prairie Guidelines and the Declaration Developer may, at its option, but only with Owner's consent, refer the plans to a professional home designer for redesign so that the plans will comply with the Mission Prairie Guidelines and Declaration. The Owner will be responsible for the payment of any fees charged by such professional.

3. There shall be no outside storage of boats, trailers, buses, commercial trucks, recreational vehicles or other vehicles or items deemed to be unsightly by the Developer or the MISSION PRAIRIE Homeowners Association, created pursuant to Section C, below.

4. All building plans and the exterior design of each building to be constructed, added to, or modified and all yard grades and stakeout surveys must be approved by Developer in writing prior to application for a building permit. Complete landscaping plans shall be submitted to Developer for approval within one year of the date of occupancy of the residence. Developer's approval shall be based upon the building and use restrictions contained in this Section B and the Guidelines for Plan Approval for MISSION PRAIRIE Subdivision.

5. Basic site features such as swimming pools (which must be inground), decks (which shall only be constructed of wood or certain artificial wood products if specifically approved in writing by Developer), gazebos, retaining walls (which shall only be constructed of natural stone, wood timbers or

certain artificial stone products if specifically approved in writing by Developer), berms more than 3 feet in height, and other temporary or permanent structures or elements contributing significantly to the total environmental effect of MISSION PRAIRIE are subject to the prior written approval of Developer. Children's outdoor playground equipment and play structures shall be allowed and shall be located within the building envelope, provided that any part of such equipment or structure that is an enclosure must be approved in writing by Developer prior to installation. Kennels of any kind are not allowed. Fences associated with swimming pools are allowed, subject to being approved in writing by Developer, but no other fences are permitted. Following such time that a principal residence has been constructed upon each lot in MISSION PRAIRIE, Developer may, but shall not be obligated to, delegate to the MISSION PRAIRIE Homeowners Association Board of Directors the approval authority contained in this Paragraph. Such approval authority, if delegated, shall exclude the authority to approve additions or modifications to buildings constructed in MISSION PRAIRIE. During the initial term hereof, such additions and modifications shall be subject to the prior written approval of Developer. To be effective, notice of such delegation shall be recorded in the office of the Register of Deeds for Waukesha County, Wisconsin.

6. At the time of construction of a residence, the Owner shall install, at a location designated by Developer, one outdoor electric post lamp with an unswitched photoelectric control. The design of the post lamp shall be uniform throughout MISSION PRAIRIE and subject to the approval of the Developer.

7. The design and location of each mailbox/newspaper box shall be uniform throughout MISSION PRAIRIE and subject to approval of the Developer.

8. There shall be no satellite dish antennas having a diameter in excess of 24 inches. No antenna or satellite dish shall be mounted or installed on any roof. Any antenna or satellite dish should, if possible without interfering with reception, be placed and screened so as to minimize its visibility from roadways and neighboring lots.

9. No more than (1) gazebo shall be permitted on a lot, and no other outbuildings shall be permitted. The exterior design of each gazebo, as well as its location must be approved by Developer in writing prior to application for a building permit.

10. The Developer, and no other, shall have the right and authority to modify the Guidelines for Plan Approval or to permit variances from the application thereof, if, in its opinion, the modification or variance is consistent and compatible with the overall scheme of development of MISSION PRAIRIE, provided that no such modification shall be in violation of local ordinances, or have the effect of revoking an approval previously granted in writing hereunder. Notwithstanding the foregoing, any such modifications or variances shall be at the sole and absolute discretion, aesthetic interpretation and business judgment of the Developer, and this Paragraph and any modifications or variances granted hereunder shall not in any way be interpreted (i) as preventing the Developer from requiring at any time, and from time to time, strict compliance with the Building and Use Restrictions, or (ii) as entitling any person to a modification or variance not approved and granted in writing by the Developer.

11. Each Owner must adhere to and finish grade his lot in accordance with the Master Grading Plan or any amendment thereof approved by the City Engineer and on file with the City. The Developer

and/or the City and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance and correction of any drainage condition, and the Owner is responsible for cost of the same. Each Owner, at the time of home construction, shall also be responsible for grading his lot so as to direct drainage toward the street or other established drainageway and to prevent an increase in drainage onto neighboring property. This shall be accomplished by creating swales along common lot lines wherever practical which shall be kept free of any obstructions. Each Owner must consult with the adjacent lot owner to determine the best manner in which to grade their common lot lines. Neither Developer nor the City shall be responsible for establishing lot line grades due to varying terrain and drainage conditions on each lot following home construction. The services of a professional engineer may be required to design a proper grading plan for any lot, the cost of which shall be paid by the affected lot Owner. Final grading of a lot shall be completed within two months of the date of occupancy of the residence, (subject to delays caused by adverse weather conditions) .

12. Where ground fill is necessary on any lot to obtain the proper topography or finished ground elevation, it shall be ground fill free of waste material and shall not contain noxious materials. All fill shall be leveled immediately upon completion of the residence and shall be graded and contoured in accordance with the Master Grading Plan approved by and on file with City. All fill which is not used on a lot shall be deposited, free of charge, at such places within MISSION PRAIRIE, or removed from MISSION PRAIRIE, as directed by the Developer. The City engineer shall have the authority to alter the final grade set forth on the Master Grading Plan for any lot based on field conditions at the time of construction.

13. Each Owner shall, from the time construction on his lot has commenced, be responsible for installing and maintaining appropriate erosion control measures until such time as a lawn or other plantings sufficient to prevent erosion has been established on the property. These measures include, but are not limited to: installation of silt fence, hay or straw bales and ditch checks; street cleaning following precipitation events or tracking of mud on streets by any vehicle leaving the property; and sodding or seeding and mulching lawn areas. Steep slopes may require installation of straw mat, jute mat or other materials designed to stabilize steep and highly erodable areas. Any areas where erosion control measures have been compromised by weather, construction or any other event shall be repaired within 24 hours of damage. Erosion control measures must be inspected and any necessary maintenance or repairs made after every rainfall exceeding ½ inch and at least once per week. Failure to comply with these requirements may result in sanctions against the Owner by the City and/or the Wisconsin Department of Commerce and/or the Wisconsin Department of Natural Resources. All erosion control measures shall be installed and maintained according to the standards and specifications set forth in Wisconsin Department of Natural Resources Conservation Practice Standard and local ordinances. The Developer may install silt fencing on certain lots in the subdivision to control erosion. Such fencing shall be maintained by the Developer and then the subsequent lot Owners (on whose lots the fencing has been installed) until such time as turf cover is restored to all disturbed areas.

14. In the event that an Owner or his contractors disturb neighboring property during construction or grading, all disturbed areas shall be immediately restored to their original grade and with

vegetation of like kind. In the event that any material is deposited onto a street or neighboring property, the Owner of the lot from which the material came shall be responsible for removing the material and restoring the street or property to its original condition.

15. Each Owner shall perform such periodic maintenance of the Owner's lot, including the adjoining public right-of-way area up to the edge of the road pavement, as may be necessary to keep the lot neat and clean in appearance, including, without limitation, the mowing of grass and removal of weeds and debris. This requirement applies to vacant lots as well as to lots where improvements have been constructed.

16. Any Owner violating the restrictions contained herein shall be personally liable for, and shall reimburse Developer and the Association for all costs and expenses, including attorneys' fees, incurred by Developer or the Association in enforcing the restrictions contained in this Section B. The foregoing shall be in addition to any other rights or remedies that may be available to Developer or the Association.

17. As part of the development of each lot, the Owner shall be required to incorporate into each lot a rain garden or infiltration system, defined as a system designed to soak up rain water and slow storm water runoff flowing from rooftop(s) during rain events (hereinafter "Rain Garden"). The Rain Garden shall be designed by a qualified landscape architect and sized appropriately to detain and soak up rain water from the rooftop on the parcel for a 2-year storm event, and shall be subject to approval of Developer. Where topography allows, rooftop runoff water shall be directed to the Rain Garden via either a drainage swale (preferably vegetated) or a pipe, as appropriate, with a minimum slope of 1 percent. The Rain Garden normally consists of a landscaped area planted with native vegetation, containing a depression that will fill with several inches of water during storm events, thus allowing the water to slowly filter into the ground. Where slopes are too steep to allow for the design and locating of a depression-type Rain Garden, an infiltration system shall be designed consisting of a downspout pipe routing rainwater runoff directly from the rooftop into a piping system (typically, polyvinyl chloride (PVC) pipe cut in half lengthwise and placed face down in a trench or a series of trenches; buried several inches beneath the ground surface on a bed of gravel; and oriented parallel to the natural contours of the land (or an equivalent design)). Preferably, one or more pipes are connected to the piping system, in order to outlet water to the surface in the event that the volume of rainfall exceeds a two year storm event. The best location for the system will be determined by an on-site soil assessment by the landscape architect. The location of the Rain Garden will be chosen based on natural characteristics of each lot, utilizing a naturally occurring depression, if possible, or if that is not possible, giving preference to a location near to the building envelope. Each Owner shall construct and perpetually maintain the Rain Garden, at his sole expense.

18. The use on any lot of any commercial fertilizer composition that contains phosphates is prohibited.

19. Each Owner shall be responsible to Developer and the City for the costs of repairing and replacing any street pavement, curb and gutter (including restoration of topsoil and lawn abutting the curb and gutter) which have been damaged during the course of constructing improvements on the Owner's lot. In the event that the City requires Developer to make such repairs or replacements at Developer's expense,

the Owner shall be required to reimburse Developer for the cost of the repairs and replacements to the extent that such costs exceed the amount of the curb and gutter damage bond of Owner, if any, held by Developer or the City. Reimbursements not paid when due shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid, shall constitute a continuing lien on such Owner's lot until paid in full, and shall also be the personal obligation of any current or subsequent Owner of the lot. Developer may record a document with the Register of Deeds in Waukesha County, Wisconsin, giving notice of the lien for any such unpaid reimbursements and, upon payment or satisfaction of the amount due, Developer shall record a document canceling or releasing any such lien. The failure to file any such notice shall not impair the validity of the lien. The affected Owner shall pay or reimburse Developer for all recording and attorney fees relating to any such documents. The lien may be enforced and foreclosed by the Developer in the same manner, and subject to the same requirements, as a foreclosure of mortgages on real property pursuant to the laws of the State of Wisconsin. Such remedy, however, shall not preclude Developer from pursuing all other legal remedies.

C. OWNERS ASSOCIATION

1. The Developer has created, or will create, a non-stock, nonprofit Wisconsin corporation known as "Mission Prairie Homeowners Association, Inc." (hereinafter the "Association") for the purpose of managing and controlling subdivision Common Areas (as defined below). The Association shall operate in accordance with the Articles of Incorporation and Bylaws of the Association.

(a) Each 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. Membership and voting rights shall not be divided between or among the co-owners of a lot. Co-owners of a lot shall decide between or among themselves how they will exercise their collective right and shall designate one of the co-owners to act on their behalf.

2. The term "Common Area" shall include the following areas:

(a) Outlots 1 and 2 of MISSION PRAIRIE.

(b) The grass area and any fencing and landscaping contained within the public right-of-way of Mission Road and ~~Prariegrass Lane~~ **Red Chapel Court**. Any portion of the Common Area within a public street right-of-way may only be improved with the consent of the City and other appropriate public authorities. Consent to any such improvement shall not be considered or construed as an assumption of

liability or responsibility for maintenance, nor shall such consent relieve the Association and/or the Owners of duties to maintain such improvements.

3. No improvements shall be allowed on the Common Area except for: landscaping; entrance monuments; walking trails; storm-water management facilities and sewer, water, gas, electric, telephone and other utility lines and facilities. Except as provided herein, there shall be no construction or placing of storage areas, signs, billboards or other advertising material or other structures, whether temporary or permanent, or materials on the Common Area. There shall be no commercial or industrial activity undertaken or allowed within the Common Area, nor shall any right of passage across or upon the Common Area be allowed or granted in conjunction with commercial or industrial activity. There shall be no filling, excavating, mining or drilling, removal of top soil, sand, gravel, rock, minerals or other materials nor any building of roads or change in the topography of the Common Area in any manner. Except as may be necessary for proper maintenance and management, there shall be no removal, destruction or cutting of trees or plants within the Common Area. There shall be no dumping of trash, garbage or other unsightly or hazardous material upon or within the Common Area. There shall be no hunting or trapping within the Common Area. Except as may be necessary in conjunction with landscape maintenance, there shall be no operation of any type of motorized vehicle within the Common Area.

4. Each lot shall have an appurtenant undivided fractional interest in the Common Area outlots, the numerator of which shall be one and the denominator of which shall be the total number of lots subject to this Declaration. All deeds and any other conveyances of any lot in MISSION PRAIRIE shall be deemed to include such undivided interest in the Common Area outlots, whether or not so specifically stated in any such deed or other conveyance.

5. The Association shall have the following duties:

(a) To provide for the maintenance of improvements in Common Areas, including the storm water management and drainage facilities located therein. Common Area maintenance shall be performed in accordance with written guidelines and standards established by Developer for maintenance of Common Areas, as well as generally accepted sound maintenance practices;

(b) To establish rules and regulations governing the use and enjoyment of the MISSION PRAIRIE Common Areas.

(c) To enforce the provisions of this Declaration.

6. Without limitation, and in addition to those powers bestowed upon the Association in the Articles, Bylaws and Chapter 181 of the Wisconsin Statutes, the Association shall have the following powers, together with any others which may be necessary or incidental to performance of all duties of the Association specified in this Declaration:

(a) To take such action as may be necessary to cause the Common Areas to be maintained, repaired, landscaped (where appropriate) and kept in good, clean, functional and attractive condition.

(b) To take such actions as may be necessary to cause the storm water management and drainage facilities in MISSION PRAIRIE to be maintained, repaired and kept in a good, clean, functional

and attractive condition and in compliance with the requirements of the City, including an adequate capital reserve fund therefor assessed and collected in accordance with Paragraph C.7, below.

(c) To take such action as may be necessary to enforce the provisions of this Declaration.

(d) To take such action as may be necessary to enforce the rules and regulations governing the use and enjoyment of the MISSION PRAIRIE Common Areas.

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

(f) To grant utility and drainage easements in accordance with the provisions of Section F, below; and

(g) To levy and collect assessments in accordance with the provisions of Paragraph C. 7, below.

7. The Association shall levy and collect assessments in accordance with the following:

(a) The Owner of each lot shall be subject to a general annual (or more frequent, if required) charge or assessment equal to his pro rata share of the costs incurred or anticipated to be incurred by the Association in performing its duties and discharging its obligations. The pro rata share of an Owner of a lot shall be a fraction, the numerator of which shall be one and the denominator of which shall be the total number of lots subject to this Declaration at the time of the assessment. Said costs shall include, but not be limited to: taxes, insurance, repair, replacement and additions to the improvements made to the Common Area, equipment, materials, labor, management and supervision thereof, and all costs for the Association reasonably incurred in conducting its affairs or enforcing the provisions of this Section C. Waukesha County shall not be liable for any fees or special assessments in the event that it should become the Owner of any lots in the subdivision by reason of tax delinquency.

(b) Assessments shall be approved at a duly convened meeting of the Association.

(c) Written notice of an assessment shall be personally delivered to each Owner subject to the assessment or delivered by regular mail or commercial delivery service addressed to the last known address of Owner, or by electronic means transmitted to the last email address provided in writing to the Association by Owner.

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

(e) Assessments not paid when due shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid, and such unpaid assessments and the interest thereon shall constitute a continuing lien on the real estate against which it was assessed until they have been paid in full. The assessments and interest thereon shall also be the personal obligation of any current or subsequent Owner of the lot against which the assessment was made.

(f) The Association may 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, record a document canceling or releasing any such lien. The failure to file any such notice shall not impair the validity of the lien. All recording and attorney fees relating to any such document shall be borne by the affected Owner.

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

(h) Any lien for assessment may be foreclosed by a suit brought by the Association, in a like manner as the foreclosure of a mortgage on real property.

8. Directors and officers of the Association 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 the directors, officers, agents or employees of the Association. The Association shall indemnify and hold the directors and officers harmless from and against any and all costs or expenses, including reasonable attorney's fees, in connection with any suit or other action relating to the performance of their duties hereunder.

9. Failure of the Association to enforce any provisions contained in this Declaration, upon the violation thereof, shall not be deemed to be a waiver of the rights to do so or an acquiescence in any subsequent violation.

10. Until such time as the Developer is no longer an Owner, the Association shall not have the power to make improvements to the Common Areas in addition to those then in existence (herein referred to as "Additional Improvements") without the written approval of Developer. Thereafter, the Association shall not have the power to make Additional Improvements having a cost in excess of Five Thousand dollars (\$5,000.00) without the consent of seventy-five (75%) of the then current Owners.

11. Anything to the contrary contained herein notwithstanding, the Association may not and shall not be dissolved without the prior written consent of the City of Delafield. In the event that the Association is dissolved, the duties of the Association shall become the direct joint responsibilities of the Owners.

D. STORMWATER MANAGEMENT

1. The Owners of lots in MISSION PRAIRIE and the Association shall be responsible for maintenance of the stormwater management measures.

2. The Association shall maintain the stormwater management measures installed on all outlots in accordance with the approved stormwater design prepared by Jahnke & Jahnke Associates Inc. dated June 20, 2006 and the Stormwater Management Measures and Maintenance Agreement for MISSION PRAIRIE on file in the offices of the City. Each Owner shall be individually responsible for the maintenance of any portion of a drainage swale that lies within or upon the lot of such Owner.

3. The City is authorized to access the property to conduct inspections of stormwater practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan.

4. The responsible parties, on an annual basis, shall provide maintenance of each stormwater management measure including but not limited to, removal of debris, maintenance of vegetative areas, maintenance of structural stormwater management measures, aeration equipment and sediment removal.

5. Owners of lots on which a drainage or storm water easement is designated will be responsible for maintenance of that portion of the easement to City standards. If the easement is not maintained according to the City's standards, the City may perform the necessary maintenance and charge the cost to the Owner of that lot, pursuant to section 66.60 (16), Wisconsin Statutes. The easement areas shall not be filled or have berms constructed on them.

6. The storm water retention basins that have been or will be constructed in MISSION PRAIRIE are required to assist in the removal of sediment from and detention of storm water. The storm water retention basins are not intended to be used for swimming or as recreational facilities, and any use of the storm water retention basins for any such purpose is strictly prohibited. Any one entering or using the storm water retention basins for uses which are prohibited does so at their own risk. By acceptance of a deed or other conveyance of a lot in MISSION PRAIRIE, each Owner and its respective successors, assigns, agents, invitees, heirs and personal representatives thereby waives, to the fullest extent permitted by law, any and all claims for liability against the Developer and/or the Association and/or their respective agents, contractors, employees, members, officers and directors for injury or damage to person or property sustained in or about or resulting from the use or existence of the storm water retention basins. In addition, each Owner (and its successors, assigns, heirs and personal representatives) agrees to indemnify, defend and hold harmless the Developer, and the City of Delafield, and the Association, and their respective agents, contractors, employees, members, officers and directors, from and against any and all liabilities, claims, demands, costs and expenses of every kind and nature (including attorneys fees) arising from any injury or damage to any person (including death) or property sustained in or about or resulting from the use or existence of the storm water retention basins on the lot of such Owner.

E. AMENDMENT PROVISIONS

Any of the provisions of this Declaration may be annulled, waived, changed, modified or amended at any time by written document setting forth such annulment, waiver, change, modification or amendment, executed by the Owners of lands having at least sixty-six percent (66%) of the votes in the Association; provided, however, that any such action must also be approved in writing by the Developer (for so long as Developer is in existence). This Declaration and all amendments shall be executed as required by law so as to entitle them to be recorded and shall be effective as to parties without actual notice upon recording in the office of the Register of Deeds for Waukesha County, Wisconsin.

F. RESERVATION BY DEVELOPER OF RIGHT TO GRANT EASEMENTS.

Developer hereby reserves the right to grant and convey easements to the City and/or to any public or private utility or communications company, (1) upon, over, through or across those portions of any lot within 10 feet of any lot line and (2) upon, over through or across any portion of any outlot, for purposes of allowing the City, utility or communications company to furnish gas, electric, water, sewer, cable television, fiber optic or other utility service within or through MISSION PRAIRIE, or for purposes of facilitating drainage of storm or surface water within or through MISSION PRAIRIE. Developer may grant such easements in its own name and without the consent or approval of any lot Owner, until such time as Developer has conveyed legal title to all lots platted or to be platted in MISSION PRAIRIE to persons other than a successor-developer. After that time, the Board of Directors of the Association created under Section C, above, shall have the power to grant easements to the City and/or to any public or private utility or communications company upon, over, through or across any portion of any outlot for purposes of allowing the City, utility or communications company to furnish gas, electric, sewer, cable television, fiber optic or other utility services within or through MISSION PRAIRIE; or through any portions of any outlots for purposes of facilitating drainage of storm or surface water within or through MISSION PRAIRIE.

G. MISCELLANEOUS

1. No noxious or offensive odor, activities or conditions shall be permitted to exist in, on or about any residence or lot, which may be, or may become, an annoyance or nuisance. No building or construction material or commercial or maintenance equipment shall be stored on any lot outside of a residence garage, other than during periods of actual construction or remodeling and then only for as long as may be reasonably necessary. Each Owner shall perform such periodic maintenance as may be necessary to keep his lot neat and clean in appearance, including, without limitation, the mowing of grass and removal of weeds, leaves and unsightly debris.

2. No sign of any kind shall be placed or displayed to the public view on any lot, except one sign of not more than six square feet advertising the residence as for sale. This provision shall not apply to the initial marketing of any phase of MISSION PRAIRIE by Developer. Signs indicating the address of a residence shall be placed only in accordance with City ordinances.

3. No animals, livestock or poultry of any kind shall be raised or kept on any lot, except that no more than (2) dogs and/or two (2) cats may be kept so long as the same are not kept, bred or maintained for any commercial purpose or permitted to run free or act in any other unreasonable manner. Animals and pets shall be housed only in the interior of the residence, and no exterior kennels, pens or other animal housing shall be maintained on the exterior of any residence.

H. DURATION OF RESTRICTIONS

This Declaration of Restrictions and Covenants and any amendments hereof shall be in force for a term of thirty (30) years from the date this Declaration is recorded, and upon the expiration of such initial 30 year term or any extended term as provided herein, this Declaration shall be automatically extended for successive terms of 10 years each, unless prior to the end of the then-current term a notice of termination is

executed by the Owners of at least seventy-five (75%) of all lots subject to this Declaration (and their mortgages) and is recorded in the office of the Register of Deeds of Waukesha County. This Declaration of Restrictions shall run with the land and shall bind the Owners and their heirs, successors and assigns and be enforceable by any Owner.

I. **SEVERABILITY**

The invalidity or unenforceability of any term, provision or condition of this Declaration for any reason shall not affect the validity or enforceability of any other term, provision, or condition hereof, all of which shall remain in full force and effect for the term of this Declaration.

IN WITNESS WHEREOF, the undersigned, MISSION PROPERTIES II LLC, has executed this Declaration of Restrictions and Covenants this 9th day of JANUARY, 2007.

MISSION PROPERTIES II LLC

BY: Richard L. Schwab

Richard L. Schwab, Member

BY: Thomas L. Shriner, Jr.

Thomas L. Shriner, Jr., Member

BY: Glenn E. Langer

Glenn E. Langer, Member

BY: William Groskopf

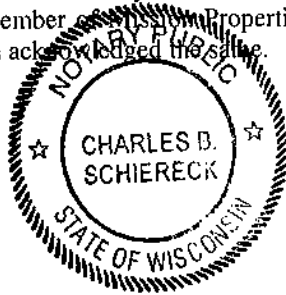
William Groskopf, Member

STATE OF WISCONSIN)

) SS

WAUKESHA COUNTY)

Personally came before me this 9th day of JANUARY, 2007, the above-named Richard L. Schwaab, a Member of Mission Properties II LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.



[Handwritten Signature]

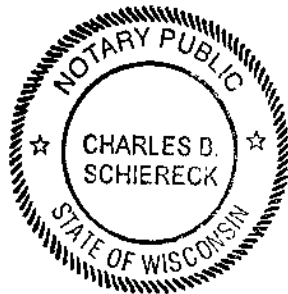
Notary Public, WAUKESHA County,
State of Wisconsin
My Commission: Exp 4/1/07

STATE OF WISCONSIN)

) SS

WAUKESHA COUNTY)

Personally came before me this 9th day of JANUARY, 2007, the above-named Thomas L. Shriner, Jr., a Member of Mission Properties II LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.



[Handwritten Signature]

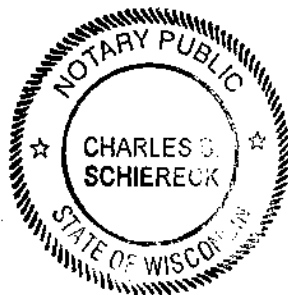
Notary Public, WAUKESHA County,
State of Wisconsin
My Commission: Exp 4/1/07

STATE OF WISCONSIN)

) SS

WAUKESHA COUNTY)

Personally came before me this 9th day of JANUARY, 2007, the above-named Glenn E. Langer, a Member of Mission Properties II LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.



[Handwritten Signature]

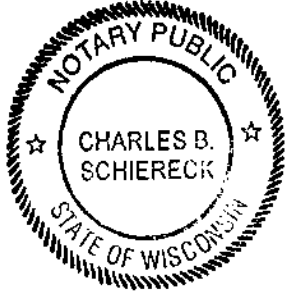
Notary Public, WAUKESHA County,
State of Wisconsin
My Commission: Exp 4/1/07

STATE OF WISCONSIN)

) SS

WAUKESHA COUNTY)

Personally came before me this 9th day of January, 2006 the above-named William Groskopf, a Member of Mission Properties II LLC, to me known to be the person who executed the foregoing instrument and acknowledged the same.



[Signature]
Notary Public, WAUKESHA County,
State of Wisconsin
My Commission: EXP 4/1/07

This instrument was drafted by
Mission Properties II LLC

CONSENT OF MORTGAGEE

First Bank Financial Centre Bank as mortgagee of any present or future mortgage on the lands subject to the foregoing Declaration of Restrictions, hereby consents to and agrees that its mortgages shall be subject and subordinate to the foregoing Declaration of Restrictions.

FIRST BANK FINANCIAL CENTRE BANK

BY: [Signature]

BY: [Signature]

STATE OF WISCONSIN)
) SS
COUNTY OF Waukesha

Personally came before me this 27 day of December, 2006, the above-named John Miller and John Lynch to me known to be the Sr. Commercial Lender and 1st VP, Chief Lending Officer respectively of First Bank Financial Centre Bank and to me known to be the persons who executed the foregoing instrument and acknowledged the same.

[Signature]
Notary Public, County of Waukesha
State of Wisconsin
Comm. exp: 8-19-07