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ORIGINAL

DECLARATION OF RESTRICTIONS

FOR

TREE TOPS SUBDIVISION

Recording Area 54-23

Name and Return Address
VILLAGE OF GERMANTOWN
N112 W17001 Mequon Road
P.O. Box 337
Germantown, WI 53022-0337

54-23

KNOW ALL PERSONS BY THESE PRESENTS; that TREETOPS DEVELOPMENT, LLC is a Limited Liability Company duly organized and existing under and by virtue of the laws of the State of Wisconsin, located at Waukesha, Wisconsin (herein referred to as "Developer," which term shall also include the duly authorized agent of Developer). Developer is the owner of Lots 1 through 51, inclusive, and Outlots 1 through 8, inclusive, in TREE TOPS Subdivision, being a subdivision of Outlot 1 of Certified Survey Map No. 5250 and unplatted lands, all being a part of the Northwest 1/4 and Southwest 1/4 of the Southeast 1/4 of Section 35, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin, (herein referred to as "TREE TOPS") and intends to establish a general plan for the use, occupancy and enjoyment of TREE TOPS, 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 TREE TOPS and any future stages of development added as provided in Section D, below (herein referred to individually as "Owner" and collectively as "Owners"), that TREE TOPS shall be subject to the following restrictions.

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

A. GENERAL PURPOSE

The general purpose of this Declaration is to promote the harmonious development of TREE TOPS 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 TREE TOPS will become and remain an attractive community; to preserve the open space within TREE TOPS; 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 on building sites; 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 TREE TOPS.

B. BUILDING RESTRICTIONS

1. All lots in TREE TOPS are restricted to the erection of a one story, story and one-half, or two story single family residence building with a minimum square footage of living space (without regard for basement level areas) as specified in Paragraphs B.2 through B.5. below, and with an attached garage which will accommodate at least two cars.

2. The minimum size of a one-story residence shall be 2000 square feet on the first floor.

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3. A story and one-half residence shall have a minimum of 2200 square feet on the upper two floors.

4. A two-story residence shall have a minimum of 2200 square feet on the upper two floors.

5. A tri-level residence shall have a minimum of 2200 square feet on the upper two floors.

6. The garage must be attached to the residence directly or by breezeway, or built into the basement of the residence and must be constructed with the residence. The maximum size of the garage shall conform to Village of Germantown (hereinafter referred to as the "Village") ordinances. Wherever possible garage entrances must be on the side of the building. Attached garages built at an angle to the body of the house ("canted" garages) may be allowed where specifically approved by Developer.

7. The exterior walls of the residence and attached garage must be constructed of brick, stone, stucco, solid wood siding, wood waferboard products of the type and quality of the innerseal lap siding product manufactured by Louisiana Pacific Corporation on the date hereof, Hardiplank siding, or their equivalents. Certain artificial stone products may be allowed if specifically approved by Developer. Siding materials such as aluminum, vinyl, steel, pressed board, Masonite or plywood will not be permitted, except on soffits. Soffits, but not fascias, may be made of the siding materials permitted above and aluminum or vinyl. Any exposed basement or foundation wall must be covered with masonry veneer, plaster or the siding materials used on the walls above.

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8. 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 or textured shingles in a "weatherwood" color.

9. The residence with attached garage, a sodded or seeded lawn and a driveway paved with concrete, asphalt or brick must be completed within one year of the start of construction.

10. Only one residence may be erected on a lot.

11. The minimum setback from any abutting street right-of-way is 40 feet. On corner lots the minimum setbacks are 40 feet from the abutting front street right-of-way and 35 feet from the abutting side street right-of-way. The minimum side yard offset is 10 feet on one side and 15 feet on the opposite side. The minimum rear yard is 30 feet. The minimum setback from a mapped wetland is 25 feet.

12. 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 TREE TOPS Homeowners Association, created pursuant to Section C, below.

13. 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

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Developer in writing prior to application for a building permit. Developer's approval shall be based upon the building and use restrictions contained in this Section B and the Guidelines for Plan Approval for TREE TOPS Subdivision which Owner shall obtain from Developer prior to submitting plans to Developer for approval. Developer may withhold exterior design approval if the design is too similar in appearance to others in close proximity.

14. Basic site features such as fences (which shall be of a decorative style; in no event will chain link or privacy fences be allowed), decks, gazebos, pool houses, swimming pools (which must be in-ground), 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 TREE TOPS are subject to the prior written approval of Developer. Children's outdoor playground equipment and play structures shall be allowed provided that any part of such equipment or structure that is an enclosure must be approved in writing by Developer prior to installation. Dog kennels are allowed provided that they are located immediately behind the house or garage with any fences screened from view by adequate landscaping. Following such time that a principal residence has been constructed upon each lot in TREE TOPS, Developer may, but shall not be obligated to, delegate to the TREE TOPS Homeowners Association Committee the approval authority contained in this Paragraph 14. To be effective, notice of such delegation shall be recorded in the office of the Register of Deeds for Washington County, Wisconsin.

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15. 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 TREE TOPS and subject to the approval of the Developer. The Owner shall maintain the post lamp in a proper operating manner. If the post lamp is not so maintained, and the condition has not been rectified by the Owner within 15 days after receipt of a notice from the TREE TOPS Homeowners Association specifying the violations of this Paragraph 15, the Owner shall be subject to a penalty of not more than $10.00 per day from the date of notice until the date the condition has been rectified. The penalty shall be assessed against the Owner and, if not paid, will be enforced as provided in Paragraphs C.12(e), C.12(f), and C.12(h), below.

16. The design and location of each mailbox/newspaper box shall be uniform throughout TREE TOPS and subject to approval of the Developer.

17. There shall be no satellite dish antennas having a diameter in excess of 24 inches, no outbuildings and no above-ground swimming pools. 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. All swimming pool related pump, heater and filter equipment must be concealed in an enclosure located next to the home or attached garage to minimize the noise and visibility to adjoining properties. A different location may be allowed in special circumstances if approved in writing by Developer.

18. The Developer, and no other, shall have the right and authority to modify the Building and Use Restrictions or to permit variances from the application thereof, if, in its

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opinion, the modification or variance is consistent and compatible with the overall scheme of development of TREE TOPS, 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.

19. Each Owner, prior to beginning construction of improvements on its lot, shall strip the top soil from the entire area of the lot anticipated to be disturbed during construction. The top soil shall be stockpiled on site for eventual redistribution and regrading after the completion of construction, in accordance with Village ordinances.

20. Each Owner must adhere to and finish grade its lot in accordance with the Master Grading Plan or any amendment thereto approved by the Village Engineer on file in the office of the Village Clerk. The Developer and/or the Village 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 their lot so as to direct drainage toward the street or other established drainageway and to prevent an increase in drainage on to neighboring

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property. This shall be accomplished by creating swales along common lot lines wherever practical. Each Owner must consult with the adjacent lot owner to determine the best manner in which to grade their common lot lines. Neither the Developer nor the Village shall be responsible for establishing lot line grades due to the varying terrain and drainage conditions on each lot following home construction.

21. Each Owner shall, from the time construction on their lot has commenced, be responsible for installing and maintaining 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/straw bales, 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 7 days 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 Village and/or the Wisconsin Department of Industry, Labor and human Relations 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 Construction Site Best Management Practices Handbook and/or local ordinances.

22. In the event that a neighboring property is disturbed during construction or

grading, all disturbed areas shall be immediately restored with vegetation of like kind. In the event that eroded 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.

23. 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 and the Association.

24. Siepmann Realty Corp. is the duly authorized agent of TREETOPS DEVELOPMENT, LLC as of the date of this Declaration and may act in that capacity until such time as a notice is recorded in the office of the register of deeds for Washington County by TREETOPS DEVELOPMENT, LLC, its successors or assigns, which terminates the authority of said agent.

C. OWNERS ASSOCIATION

1. An unincorporated association (herein referred to as the "Association") of the Owners of land in TREE TOPS and all future stages of development as provided in Section D, below (herein referred to individually as "Owner" and collectively as "Owners"), is hereby created for purposes of managing and controlling subdivision Common Areas (as defined below) and performing other duties as set forth herein for the common benefit of the Owners. The Association shall be known as "TREE TOPS Homeowners Association".

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2. The term "Common Area" shall include the following areas, plus any additional areas that may be added in accordance with Section D., below.

(a) Outlots 1, 4, 5, 6, 7 and 8 of TREE TOPS. No improvements shall be allowed on the outlots except for landscaping, a children's play structure, gazebo, sport court, walking trails, automobile parking in appropriately designated areas, and storm-water management facilities.

(b) The grass area and any fencing and landscaping contained within the public right-of-way of County Line Road.

(c) All landscaped courts and boulevards contained within the dedicated streets in TREE TOPS. Any portion of the Common Area within a public street right-of-way may only be improved with the consent of the Village 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. Each lot shall have an appurtenant undivided fractional interest in the Common Area outlots (including added future stages), the numerator of which shall be one and the denominator of which shall be the total number of lots subject to this Declaration (including added future stages). All deeds and any other conveyances of any lot in TREE TOPS 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.

4. The Association shall be governed by a three member Committee, hereinafter referred to as the "Committee," which shall be solely responsible for the activities of the

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Association. The initial members of the Committee shall be James P. Siepmann, William R. Baesemann and Charles B. Schiereck.

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

6. So long as fifty percent (50%) or more of the lots in TREE TOPS are owned by Developer, all three members of the Committee shall be appointed by Developer. So long as twenty percent (20%) or more but less than fifty percent (50%) of the lots in TREE TOPS are owned by Developer, two members of the Committee shall be appointed by Developer and one member shall be elected as provided herein. So long as five percent (5%) or more but less than twenty percent (20%) of the lots in TREE TOPS are owned by Developer, one member of the Committee shall be appointed by Developer and two members shall be elected as provided herein. If less than five percent (5%) of the lots in TREE TOPS are owned by Developer, all of the members of the Committee shall be elected as provided herein. The provisions of this paragraph shall also apply in the event of any future stages of development in accordance with Section D., below, but the lots contained therein shall not be considered in determining the above percentages.

7. Each Owner shall be entitled to vote in person or by proxy in elections for selecting members of the Committee. Owners shall have one vote for each lot owned.

8. The term of office of the initial members of the Committee shall commence upon the execution hereof and shall continue until December 31, 2002. Thereafter, the term of office of members of the Committee shall be for not more than three calendar years. If

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necessary to ensure continuity of the Committee, term lengths shall be staggered so that at least one, but not more than two, Committee members are elected each year. If any member of the Committee shall die, resign, be unable to act or cease to be qualified to be a member, the unexpired term of such member shall be filled by a special election, (or appointment by Developer, if applicable, pursuant to the terms of Paragraph C. 6, above).

9. All meetings of the Committee shall be open to Owners. The annual meeting shall be held upon not less than three days prior written notice to all of the Owners. Meetings of the Committee for the purpose of carrying out its duties and powers as set forth herein may be held from time to time without notice. Two members of the Committee shall constitute a quorum. Actions of the Committee shall be taken by majority vote.

10. The Committee 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;

b. To establish dates and procedures for the election of members of the Committee;

c. To enforce the provisions of Paragraphs B.12, B.14, B.15 and B.17, above

11. The Committee shall have the following powers:

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 and attractive condition.

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b. To take such actions or may be necessary to cause the storm water management and drainage facilities in TREE TOPS to be maintained, repaired and kept in a good, clean, functional and attractive condition and in compliance with the requirements of the Village, including an adequate capital reserve fund therefor assessed and collected in accordance with Paragraph C.12, below.

c. To take such action as may be necessary to enforce the provisions of Paragraphs B.12, B.14, B.15 and B.17, above. In order to provide for the enforcement of these provisions Developer has established a fund of Two Thousand Five Hundred dollars ($2,500.00), to be administered by the Committee, to be used to pay costs incurred by the Committee, including attorney fees, in enforcing the provisions of Paragraphs B. 12, B. 14, B. 15 and B. 17, above. If, at the end of any year, the balance in this fund is less than $2,500.00 the shortage shall be made up as part of the following year's annual assessment in accordance with Paragraph C.12(a), below, so that the beginning balance in the fund for each year shall be least $2,500.00.

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

e. To levy and collect assessments in accordance with the provisions of Paragraph C. 12, below.

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

a. The Owner of each lot shall be subject to a general annual 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 (including added future stages) 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 and enforcing the provisions of this Section C. Washington 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 the duly convened annual meeting of the Committee.

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

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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 Committee may record a document with the Register of Deeds in Washington 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 member of the Committee may, without calling a meeting of the Committee, provide to such Owner a statement in recordable form certifying (1) that the signer is a duly elected or appointed member of the Committee and (2) as to the existence of any unpaid assessments or other amounts due to the Association. Such statement shall be binding upon the Committee 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 Committee, acting on behalf of the Association, in a like manner as the foreclosure of a mortgage on real property.

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13. Members of the Committee shall not be liable for any action taken by them in good faith in discharging their duties hereunder, even if such action involved a mistaken judgment or negligence by the members or agents or employees of the Committee. The Association shall indemnify and hold the members of the Committee 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.

14. Failure of the Association or the Committee to enforce any provisions contained in this Section C, 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.

15. During the initial term of the Committee, the Committee 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. After the initial term the Committee 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 eighty percent (80%) of the then current Owners.

16. If the Committee shall fail to discharge its duties under this Section C within 60 days of written demand by the Village, the Village may discharge the duties of the Committee. The costs of the Village incurred in connection therewith shall be charged to the Owners of the properties affected by such actions of the Village by adding to each Owner's real estate tax statement a charge equal to such Owner's pro rata share (the same as such Owner's share of annual assessments as provided in subparagraph C. 12 (a), above) of such costs.

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