

DECLARATION OF RESTRICTIONS

KNOW ALL PERSONS BY THESE PRESENTS, that the undersigned, Russel Kilps, hereinafter known as "THE DEVELOPER", and being the owner of the property known as **KELLY ESTATES**, being a part of the SE 1/4 and SW 1/4 of the SW 1/4 of Section 9, and the NW 1/4 of the NW 1/4 of Section 16, T 5 N, R 20 E, in the City of Muskego, Waukesha County, Wisconsin, does hereby intend to establish a general plan for the use, occupancy and enjoyment of said Development, therefore, Developer does hereby declare that all lots therein shall be subject to the following restrictions, which shall remain in force for a period of Fifty (50) years from the date of recording hereof.

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

2. HOUSE DESIGN & CONSTRUCTION TIME, OFFSETS & SETBACKS:

a) No lot shall be used for other than single family residential purposes except lots 4 thru 9 inclusive, which are duplex lots. All structures shall be designed by a person experienced in residential design or a professional engineer or architect. All buildings shall be completed within the allotted time set by the City of Muskego in its Ordinances, or within the period of one (1) year from the start of construction, whichever period shall be shorter.

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

Lots 1, 2, 3, & 10 (Single Family)

1. All dwellings shall conform to the size and setback requirements of the Muskego Zoning Code for RS-2 zoning.
2. No garage shall be smaller than two cars in size or larger than three cars in size and shall be an integral part of the dwelling. All residents shall have full basements with the exception of split-level or bi-level homes.

Lots 4 thru 9 Inclusive (Duplex)

1. All dwellings shall conform to the size and setback requirements of the Muskego Zoning Code for RSA zoning.
2. Each unit shall have a garage two cars in size. All residents shall have full basements with the exception of split-level or bi-level dwellings.
3. All six (6) of the duplexes will be required to be approved via site plan to be presented to the Plan Commission at one time and deed restrictions will be required with site plan approval.

3. UNSIGHTLY CONDITIONS: No structure of any kind shall be moved onto any lot and no living quarters of a temporary character shall be permitted at any time, it being the intention that only permanent private dwellings and garage shall be permitted. No lot shall be used in whole or in part for the storage of rubbish or building materials of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any lot that will omit foul or obnoxious odor; or that will caused any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding property.

4. UTILITIES & EASEMENTS: All electric, gas and telephone lines shall be placed underground. The lots subject to these restrictions shall be subject to any easements granted or hereafter to be granted by the undersigned or its successors and assigns to the City of Muskego and easements granted or hereafter to be granted for the erection and maintenance of electric power line and telephone lines, gas or other utilities upon, under and over portions of any lots. The undersigned does hereby reserve for itself and its successors and assigns and for the benefit of the City of Muskego and public or semi-public utility companies, the easements and right-of-ways for the erection, construction and maintenance of all wires, pipes, and conduits for the transmission of electricity for lighting, telephone and for other purposes, and for the placing of the necessary attachments in connection therewith for public and private sewers, storm water drains, gas mains, water pipes and mains, and other similar services, and for performing any public or quasi-public utility or function which they or the City of Muskego may deem fit and proper for the improvement and benefit of the subject lots. Such easements and right-of-ways shall be confined, so far as possible, in the area within ten feet of all lot lines, with the necessary right to do whatever may be necessary to carry out the purposes for which this easement is created. Maintenance of easements in backyards and maintenance of driveway culverts and ditches is the responsibility of the property owner.

5. PETS, ETC.: No animals, livestock or poultry if any kind shall be raised, bred or kept on any lot except not more than two dogs, two cats, or other small household pets are permitted provided that they are not maintained for commercial purposes.

6. ARCHITECTURAL CONTROL: a) The undersigned reserves the right to restrict and/or set finished yard grades of all buildings, pools, fences or other structures to be erected or constructed. Yard grades shall not vary from the yard grades on file with the City of Muskego City Engineer unless said changes are approved in writing by the City Building Inspector and the undersigned. All dirt from excavations upon any lot which is not used on the premises shall be deposited, if needed, in such places within the development as shall be directed by the undersigned.

b) In order to maintain harmony in appearance and to protect the owners of the lots in the development, no building or other structures shall be erected, constructed or maintained upon any lot, nor shall any substantial change or alteration be made to existing structures, unless the complete plans and specifications thereof shall have been approved in writing by the undersigned or its designated representatives, who will act as the Architectural Control Committee.

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

d) Neither the undersigned nor its designated representative shall be entitled to compensation for services performed pursuant to this covenant. In the event of the death or resignation or refusal to act on any of the members of the committee while any unimproved lot remains unsold by the sellers, its successors or assigns then a successor to such member of the committee shall be appointed in writing by the undersigned or its successors or assigns. When all the unimproved lots in the development have been sold by the undersigned, or its successors or assigns, the committee shall thereafter consist of three (3) persons, who shall be elected by a majority of the owners of the improved lots in the development.

7. RESTRICTIONS-DUTY TO DISCLOSE-COMPLIANCE: These restrictions shall be deemed and construed to run with the land and shall be binding upon all of the respective purchasers of each of the said lots and upon all persons holding or claiming through them. The present buyer, and the successive buyers of said property assume all responsibility for making known the contents of this document to any further prospective buyers in the event of selling said property. Upon violation of any one or more of these restrictions by any person or entity, any owner of any lot in the development shall have the right, but not the obligation, to proceed at law against the person or persons so violating and is entitled to both equitable and legal relief. Invalidation of any one of these covenants and restrictions by judgement or court order shall in no way affect any of the other provisions, each of which shall be construed and deemed severable, an all of which not so validated, shall remain in full force an effect. Any violation of these restrictions which shall exist for a period of one (1) year without written protest thereof being received by the owners of the lot involved, shall be considered as no longer being in violation.

8. LANDSCAPE ARCHITECTURAL CONTROL: a) All landscaping must be completed within one (1) year after the completion of the residence. Said landscaping must include a hard surface drive and a seeded or sodded lawn. No permanent gravel drive will be permitted. The hard surface drive with concrete, asphalt or similar material must be installed within one (1) year from the date the premises are occupied upon completion of construction. An electric lamp and post, with photo electric cell, approved by the Developer shall be purchased and installed where the driveway meets the roadway (approximately 5 feet from the front lot line and 5 feet from the driveway). The lamp and post must be permanently installed and in operating condition before occupancy of premises is taken by owner.

b) Purchaser of lots shall be responsible for the planting of at least two (2) trees of at least 2" in diameter, to be planted approximately 5 feet from the front lot line within two (2) years of the closing date.

9. SURFACE WATER DRAINAGE: Each lot Owner must strictly adhere to and finish grade his lot in accordance with the Master Grading Plan on file in his office of the DEVELOPER and the office of the City Building Inspector unless a change is approved by the City Engineer. Until such time as all the construction improvements are dedicated to the City, the DEVELOPER and/or the City and/or the agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition and the Property Owner is responsible for cost of the same.

10. MODIFICATION OF RESTRICTIONS: These restrictions may be changed, modified and amended with the consent of 60% of the owners of the lots in the development. Each lot in the development shall be entitled to one (1) vote in determining said consent. These restrictions shall be deemed and construed to run with the land and shall be binding upon the respective owners of each lot and upon all persons holding or claiming under or through them.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this _____ day of _____, 1993.

Russel Kilps, Developer

STATE OF WISCONSIN)
WAUKESHA COUNTY) SS

PERSONALLY came before me this _____ day of _____, 1993, the above named Russel Kilps, known to be personally as the person who executed the foregoing instrument and acknowledged the same.

Notary Public - State of Wisconsin
My Commission Expires _____