

## DECLARATION OF RESTRICTIONS

WHEREAS, the undersigned Gregory J. Boehm, Gloria J. Boehm, Gary B. Boehm, and Pamela A. Boehm, a partnership (Boehm Construction) hereinafter referred to as DEVELOPER, is the owner of MEADOW GREEN WEST ADDITION #2, being a part of the NE 1/4, NW 1/4, and SW 1/4 of the NE 1/4 of Section 16, T 5 N, R 20 E, in the City of Muskego, Waukesha County, Wisconsin.

WHEREAS, the holder of a mortgage covering said land afore described, Tri City National Bank of Hales Corners, MORTGAGEE, does hereby approve of and join in and consent to the covenants and restrictions as herein contained.

NOW THEREFORE, the following restrictions upon the lots contained in the Subdivision after the recording of this declaration shall be deemed applicable:

### GENERAL PURPOSE

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

All lots subject to these restrictions shall be subject to all ordinances, zoning laws and other restrictions of the City of Muskego, Waukesha County, and the State of Wisconsin, applicable thereto and, in addition, to the following reservations and conditions for a term of twenty-five (25) years from the date of recording hereof:

1. The lots subject to these restrictions may not be subdivided and may not be redivided except for the sale or exchange of parcels of land between owners.

2. No building structure shall be erected, constructed or maintained on any lot excepting only as a private single family dwelling designed for and adapted for the occupancy of not more than one family, with private garage and other auxiliary buildings, except otherwise changed by the City of Muskego.

3. No dwelling, garage or auxiliary building shall exceed two and one-half (2 1/2) stories in height. The ground area within the perimeter of the buildings exclusive of porches, garages, patios, breezeways, and similar additions shall not be less than the following:

- A. A one story home shall have a minimum of 1,800 square feet on the first floor.
- B. A story and one-half home shall have the minimum of 1,200 square feet on the first floor.
- C. A two story home shall have a minimum of 1,100 square feet on the first floor with a total of not less than 2,200 square feet.
- D. A split level or bi-level home shall have a minimum of 1,800 square feet on the upper two levels.

Above square footage minimum requirements reflect actual living area.

4. The determination as to what constitutes a two and one-half (2 1/2) story or a one and one-half (1 1/2) story dwelling shall be made by the "Architectural Control Committee" in its sole discretion. All buildings shall be completed within one (1) year from the date ground is broken for each building unless a further extension of time is given by the "Architectural Control Committee."

5. Each dwelling shall have a minimum of one and one-half (1 1/2) baths. No garage shall be smaller than two cars in size and shall be either an integral part of the dwelling or connected by a porch or breeze-way to the dwelling.

6. No structure of any kind shall be moved onto any lot and no living quarters of temporary character shall be permitted at any time, it being the intention that only permanent, private dwellings and garages shall be permitted.

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

8. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except not more than two (2) dogs, two (2) cats or other small household pets are permitted provided that they are not maintained for commercial purposes.

9. 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 lines and telephone lines, gas or other utilities upon, under and over portions of any lot. 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 rights-of-way for the erection, construction and maintenance of all poles, 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 rights-of-way shall be confined, so far as possible, in the area within ten feet of all lot lines, with the necessary right to ingress and egress therefrom and with the right to do whatever may be necessary to carry out the purposes for which this easement is created.

10. The natural established grade of said lots, as determined by the "Architectural Control Committee" shall not be changed or altered in any way <sup>by</sup> the purchasers. All dirt from excavations on any lot which is not used on the premises may be deposited in such a place in the Subdivision as shall be directed by the "Architectural Control Committee".

No action shall be permitted which may damage or interfere with the established slope ratios, create erosion or sliding problems, or which may change the direction of flow of drainage in natural or man-made drainage channels. The slope of each lot shall be maintained by the purchaser of the lot.

11. No building or attached appurtenances or garage shall be located on any lot nearer the front lot line or the side street line, than 35 feet, or nearer to the side line of an adjoining lot or a rear lot line than 10 feet or as hereafter established from time to time by the "Architectural Control Committee".

12. In order to maintain harmony in appearance and for the protection of the owners of the lots, no building, fence, sign, wall or other structure shall be erected or maintained upon any lot, nor shall a change or alteration be made thereon unless the complete plans and specifications therefor, plot plan showing the exact location of such building, garage, fence, wall, or other structure, elevation thereof and the grade of the lot and a sketch or view of such building of structure or changes, shall have been submitted by and approved in writing by a committee of three members designated and appointed by the undersigned or its successors and assigns as herein provided, said committee being referred to as the "Architectural Control Committee". The decision of the "Architectural Control Committee" with respect to any such matter shall be final and binding upon all parties. The "Architectural Control Committee" shall have the right to refuse to approve any such plans or specifications which in the conclusive judgment of a majority of its members are not in conformity with these restrictions or are not desirable for esthetic or for any other reason. In passing upon such plans and specifications, the "Architectural Control Committee" may take into consideration the suitability of the proposed building or other structure, design, elevation and the materials of which is or is to be constructed on the proposed site; the harmony thereof with the surrounding buildings and the view or outlook from the adjacent property. All decisions of the "Architectural Control Committee" on said matter shall be final. The "Architectural Control Committee" shall have the right to waive minor infractions of deviations from these restrictions in cases of hardship. Every such approval shall be based upon the promise

and commitment of the owner of the lot seeking, to seed or sod and landscape said lot in a manner in keeping and harmony with the adjacent and neighboring properties within 18 months after date of occupancy permit. The "Architectural Control Committee" may from time to time, in its discretion, require greater setbacks than those required by this declaration.

The Architectural Control Committee approval or disapproval as required in these covenants, shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within thirty days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenant shall be deemed to have been fully complied with.

The original Architectural Control Committee shall be composed of Gregory J. Boehm, Gloria Boehm and Pamela Boehm. A majority of the "Architectural Control Committee" may designate a representative to act for it. In the event of death or resignation of a member of the "Architectural Control Committee", the remaining members shall have full authority to designate a successor. In the event of the death or resignation or refusal to act of any of the members of the "Architectural Control Committee" while any unimproved lot remains unsold by the undersigned or its successors or assigns, then their respective successors to the committee shall be appointed in writing by the undersigned or its successors or assignees. When all the unimproved lots in the Subdivision have been sold by the undersigned, or its successors or assignees, the Architectural Control Committee shall thereafter cease to exist and the power granted to the Architectural Control Committee shall expire.

13. No lot shall be used in whole or in part for the storage of rubbish or building materials of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any lot that will emit foul or obnoxious odor; or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding property.

14. Any violation of these restrictions which shall exist for a period of one year without a written protest thereof being received by the owner of the lot involved shall be considered a violation thereafter. These restrictions may be changed, modified and amended at any time by written declaration, executed so as to permit the recording thereof in the office of the Register of Deeds, setting forth such change, modification or amendments, signed by the owners of at least sixty percent of the lots subject to these restrictions, and by the DEVELOPER, so long as it shall won any such lot, said declaration shall be executed as required by law so as to entitle it to be recorded and it shall be recorded in the office of the Register of Deeds, Waukesha County, Wisconsin, before it shall be effective. These restrictions shall be deemed and construed to run with the land and shall be binding upon the respective owners of each of the lots and upon all persons holding or claiming under or through them. Upon the violation of any one or all of these restrictions by any owner or owners of any said lot, their heirs, executors, administrators

or assigns, or by any persons holding under them, then, and upon the happening thereof, any person or persons owning any lot or lots shall have the right to proceed at law or in equity against the person or persons violating or attempting to violate any such covenant or restriction, and shall be entitled to both equitable and legal relief.

15. Developer reserves the right for a period of six months after the execution hereof, to grant easements as detailed in paragraph 10, to Wisconsin Electric Power Company and Wisconsin Bell, Inc., for utility purposes over, upon, under or across ALL lots in this subdivision, whether owned by the developer or third parties. Such easements shall be granted on standard utility forms.

16. Invalidation of any one of these covenants and restrictions by judgment or court order shall in no wise affect any of the other provisions, each of which shall be construed and deemed severable and all of which are not so invalidated shall remain in full force and effect.

17. Any violation of these restrictions shall not result in a forfeiture or reversion of title to any lot.

18. In order to maintain harmony in appearance and for the protection of the owners of the lots the view or outlook from the adjacent property, the owners of said lots within 18 months after date of occupancy permit shall plant the species and number of street trees approved by the Developer and the City of Muskego for each fifty feet of frontage on all streets.

Therefore, it be resolved that the City Of Muskego and the Developer approves the following species as being suitable for street trees:

- A. Norway Maple - *Acer Plantanoides*
- B. Red Maple - *Acer Rubrum*
- C. Sugar Maple - *Acer Saccharum*
- D. White Ash - *Fraxinus Americana*
- E. Marshall Seedless Green Ash - *Fraxinus Pennsylvanis*
- F. Crabapples - *Malus Varieties* Subintegurima
- G. Kentucky Coffeetree - *Gymnocladus Dioicia*
- H. Haphorbeam or Ironwood - *Ostrya Virginiana*
- I. Red Oak - *Quercus Rubra*
- J. Greenspire Linden - *Tilia Cordata*

Be it further resolved that these trees, one per every fifty feet of frontage, shall be located with in fifteen feet of the front lot line on streets with rural cross sections; that all the trees shall be Class A nursery stock, free of all disease; that all trees shall be 6 to 10 feet in height with 1.25 to 1.5 caliper at the point on the trunk 6 inches above grade after planting; that all trees shall be planted and staked using proper and appropriate methods; that the bonds for all street trees shall be in effect for 18 months after planting. The owners of said lots will bear the full cost of the purchasing, planting, and maintaining the street trees. Any violation of said above restriction shall result in the Developer hiring a reliable nursery to purchase and plant the street trees at the owners expense. A temporary easement will be granted through the "Architectural Control Commitee" for the reliable nursery.

19. The lots subject to these restrictions shall be subject to submit proposed building, garage, fence, wall, or other structure layouts to the "Architectural Control Committee". The decision of the "Architectural Control Committee" with respect to any such matter shall be final and binding upon all parties. The "Architectural Control Committee" shall have the right to refuse to approve any such plans or specifications which in the conclusive judgement of a majority of its members are not in conformity with the restrictions of the Section 404 of the Clean Water Act or the Department of the Army Permit No. 89-1129-13 for the Meadow Green West Add. #2 Subdivision. At the time of all the lots in the subdivision have been sold, an Association of all lot owners in the subdivision will be transferred the permit stated above and will uphold the declaration of restrictions of all the ordinances of the permit stated above, and all the ordinances, zoning laws, and other restrictions of the City of Muskego, Waukesha County, and the State of Wisconsin.

20. When all the lots in the subdivision have been sold by the undersigned, or its successors or assignees, the "Architectural Control Committee" shall thereafter cease to exist and the power granted to the "Architectural Control Committee" shall expire. At this time all lot owners may form an Association for the subdivision. The Association must uphold the declaration of restrictions for this subdivision and any restrictions of all the permits, ordinances, zoning laws, and other restrictions of the City of Muskego, Waukesha County, Dept. of Army, and the State of Wisconsin.

#### PRESERVATION RESTRICTION

Those areas of land which are indicated as "Wetlands" on this Plat shall be subject to the following restrictions:

- 1) Grading and filling shall be prohibited in said preservation area; excepting those areas as designated by a U.S. Army Corps of Engineers Permit.
- 2) The removal of peat or topsoil within the preservation area shall be prohibited.
- 3) Removal or destruction of any vegetative cover, i.e., trees, shrubs, grasses, etc., shall be prohibited with the exception of dead vegetative materials and noxious weeds.
- 4) The introduction of plant material not indigenous to the existing environment of the preservation area shall be prohibited in the preservation area.
- 5) Ponds are not permitted within said preservation area without permission of the Department of Natural Resources and the Corps of Engineers.
- 6) Construction of fences or building within said preservation area are prohibited.

Dated this 4th day of June, 1991.

Gregory J. Boehm  
Gregory J. Boehm

Gloria J. Boehm  
Gloria J. Boehm

Gary B. Boehm  
Gary B. Boehm

Pamela A. Boehm  
Pamela A. Boehm

ACKNOWLEDGMENT

STATE OF WISCONSIN )  
MILWAUKEE COUNTY ) SS

Personally came before me this 4th day of June, 1991  
the aboved named Gregory J. Boehm, Gloria J. Boehm, Gary B. Boehm  
and Pamela A. Boehm to me known to be the persons who executed the  
foregoing instrument and acknowledge the same.

Jean Marendia  
Notary Public - Waukesha County

My Commission Expires 5-7-95

This Instrument was drafted by Gregory J. Boehm