

1667325

SHEBOYGAN COUNTY, WI  
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RECORDING FEE: 97.00  
TRANSFER FEE:

STAFF ID 2  
TRANS # 12979

# OF PAGES: 44

Declaration of Covenants,  
Conditions and Restrictions

Document Number

Declaration of Covenants, Conditions and Restrictions for  
Pinehurst Meadows, City of Sheboygan Falls, Sheboygan County,  
State of Wisconsin, attached.

Recording Area

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**DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR**

**PINEHURST MEADOWS  
SHEBOYGAN FALLS, WISCONSIN**

**DECLARANT  
PINEHURST FARMS GOLF DEVELOPMENT, L.P.**

Prepared By  
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**DECLARATION, COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
PINEHURST MEADOWS**

This Declaration of Covenants, Conditions and Restrictions for Pinehurst Meadows ("Declaration") is made and entered into by Pinehurst Farms Golf Development, L.P. ("Declarant"). By this Declaration, Declarant intends to subject the residential lots within the subdivision described on Exhibit A (the "Subdivision") including all, buildings and other improvements and certain easements, rights, restrictions, and obligations with respect to the ownership, use and maintenance of property within the Subdivision, to this Declaration.

NOW THEREFORE, Declarant, as fee owner of the Subdivision, by this Declaration (i) establishes and imposes certain provisions, restrictions, conditions, easements and uses upon the Subdivision; and (ii) specifies that the provisions of this Declaration shall constitute covenants running with the land within the Subdivision which shall be binding upon Declarant, its successors and assigns, and all subsequent owners and occupants of all or any part of such Subdivision.

**ARTICLE I  
DEFINITIONS, PURPOSE AND USE RESTRICTIONS**

**1.01 Definitions.**

The following definitions apply to this Declaration, the Bylaws, the Articles of Incorporation, and all amendments to those documents unless the context otherwise requires.

**"Additional Property"** means additional real property subject to Declarant's unilateral right to expand the Subdivision, as provided in Section 4.01 of this Declaration, which shall not be limited.

**"Annual Assessment"** means an assessment for Common Expenses levied in accordance with Section 3.06(c) of this Declaration.

**"Architectural Control Committee" ("ACC")** means the committee appointed or elected in accordance with Section 2.01 of this Declaration to maintain the quality and architectural harmony of Improvements in the Subdivision.

**"Architectural Guidelines"** means the guidelines and rules published and amended and supplemented from time to time by the ACC.

**"Articles of Incorporation"** means the articles of incorporation of the Association as amended from time to time.

**"Assessment"** means the Annual Assessments and any Special Assessment provided for in this Declaration.

**"Association"** means The Pinehurst Meadows Homeowners Association, Inc., a Wisconsin non-stock, non-profit corporation, its successors and assigns.

**"Board of Directors"** or **"Board"** means the board of directors of the Association.

**"Bylaws"** means the bylaws of the Association, as amended from time to time.

**"City"** means the City of Sheboygan Falls, a municipal corporation.

**"Common Area"** means any portion of the Subdivision (together with any improvements now or hereafter, located on such portion) which is not a Lot or Dedicated Element and which is conveyed by the Declarant to the Association. Common Areas shall principally consist of ponds or lakes, parklands, or other recreational facilities, the entranceway landscaping and signs within the Subdivision.

**"Common Area Expenses"** means the expenses attributable to maintaining, acquiring, improving, policing or preserving the Common Areas as more particularly described in Section 3.04 of this Declaration.

**"Common Improvements"** consist of the following, whether or not located in the Common Areas: all signs and/or monuments (including any lighting and landscaping related thereto) within or outside of the Subdivision not owned and maintained by the City generally identifying the Subdivision, sidewalks, or other recreational facilities and any other improvements made or acquired by the Association or Declarant in the Common Areas. Common Improvements do not include Dedicated Elements.

**"Common Surplus"** means, for any period, the excess of all receipts of the Association over the amount of Common Area Expenses.

**"Declarant"** means Pinehurst Farms Golf Development, L.P. and its successors and assigns, as provided within Section 3.01(b) of this Declaration.

**"Dedicated Elements"** means those streets, curbs, gutters, sidewalks or other portions of the Subdivision which have been or will be dedicated for public use and for which the City has assumed responsibility for maintenance pursuant to City ordinances or otherwise.

**"Director"** means a member of the Board.

**"Expansion Right"** means the right under this Declaration to add Additional Property to the Subdivision as set forth within Section 4.01.

**"Family"** shall mean one or more persons related by blood, marriage or adoption, or not more than two individuals who are not so related, who are living, sleeping, cooking and eating in the Home as a single housekeeping unit.

**"Golf Course"** means the golf course named, "The Bull" at Pinehurst Farms in Sheboygan Falls, Wisconsin, and related amenities such as but not limited to rain shelters, maintenance buildings and a clubhouse. The Bull is an independent golf course operation and is not subject to this Declaration.

**"Golf Course Owner"** means Pinehurst Farms Golf Development, L.P., or its successors or assigns, who owns the Golf Course.

**"Golf Course Rules"** means the conditions, requirements, limitations and observances of play and usage of the Golf Course as established by the Golf Course Owner, or its agent, from time to time.

**"Home"** means an Improvement consisting of a residential building constructed on a Lot and designed and used as a dwelling for one Family.

**"Improvement"** means any improvement to a Lot including, but not limited to a Home, all other buildings, structures, shelters, sheds, storage facilities, garages, parking areas, porches, patios, gazebos, fences, walls, antennae, exterior lighting or electric fixtures, driveways, in-ground or above-ground swimming pools, fountains, landscaping, hedges, plantings, gardens, vegetable or flower beds, burns, swales, signs, and utility improvements.

**"Lot"** means a platted lot within the Subdivision identifiable by reference to a name or a lot number, regardless of whether such property is currently platted or platted at some future time. The term "Lot" does not include any Common Area or an Outlot.

**"Mortgagee"** means the holder of any recorded mortgage or vendor's interest in a land contract encumbering all or any part of the Subdivision.

**"Occupant"** means the Owner or any other person residing in a Home under a lease or other arrangement with the Owner.

**"Outlot"** means an outlot as shown on the Plat. The reference to an Outlot by a number shall mean that particular Outlot as shown on such Plat.

**"Owner"** means the fee simple owner of a Lot, and the vendee of a Lot under a recorded land contract. All co-owners of a Lot, whether as tenants in common, joint tenants or otherwise, shall be deemed a single "Owner". The Declarant is an Owner with respect to Lots to which it holds title.

**"Period of Declarant Control"** has the meaning assigned to that phrase in Section 3.01(b) of this Declaration.

**"Person"** means an individual, corporation, partnership, association, trustee or other legal entity.

**"Plat"** means the final plat of Pinehurst Meadows executed by the Declarant and approved by the City, describing the Subdivision and filed for record with the Register of Deeds of Sheboygan County, Wisconsin.

**"Purchaser"** means any person, other than Declarant, who, by means of a voluntary transfer, acquires a legal or equitable interest in a Lot within the Subdivision other than as security for an obligation.



**"Rules and Regulations"** means any rules or regulations promulgated by the Association, which pertain to the Subdivision in accordance with Section 3.03 of this Declaration.

**"Subdivision"** means all property described in Exhibit A to this Declaration including Lots 1 through 53 as shown on the Plat. Regarding the Expansion Right, the term "Subdivision" shall be deemed to include any Additional Property, together with all existing and future Improvements and Common Improvements thereon, that is made subject to this Declaration by such expansion.

**"Undeveloped Lot"** means a Lot on which no Home has been constructed to the point of final completion pursuant to the plans and specifications approved by the ACC and no Certificate of Completion and certificate of occupancy has been issued pursuant to Section 2.22.

#### **1.02 General Purpose.**

The general purpose of this Declaration is to help assure that the Subdivision will become and remain an attractive safe and healthy residential area and that Owners will be provided with services and other benefits provided for in this Declaration, and in furtherance of such purpose: to preserve and maintain high aesthetic standards for all Improvements, as well as the natural beauty of certain open spaces and Common Areas within the Subdivision; to help assure the best use and most appropriate development of the Subdivision; to protect Owners against use which may detract from the value or enjoyment of the Subdivision as a whole; to guard against the erection or maintenance of Improvements that are poorly designed or proportioned or inconsistent with the aesthetic integrity of the Subdivision; to obtain a harmonious and aesthetically pleasing blend of materials, structures and color schemes for Improvement within the Subdivision, to encourage and secure the construction of Improvements in appropriate locations; and, to assure development of the Subdivision consistent with high aesthetic standards and the purposes for which the Subdivision is intended.

#### **1.03 General Restrictions and Use of Homes and Lots.**

- (a) Each Lot shall be used solely for residential purposes in accordance with applicable public zoning and use statutes, regulations, ordinances and this Declaration. The term "residential purposes" shall include only those activities necessary for or normally associated with the use and enjoyment of a Home as a place of residence and limited recreation.
- (b) Only one Home may be constructed on each Lot and no garage or Improvement other than the Home shall be used for temporary or permanent living or sleeping for Family members or guests without the prior approval of the Association.
- (c) Each Lot and all Improvements located on the Lot shall be used and maintained in compliance with all of the provisions of this Declaration and of the Rules and Regulations.

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

#### **1.04 Use and Maintenance of Common Areas.**

- (a) The Association shall maintain the Common Areas so as to be neat and attractive in appearance. Any signs, monuments, structures or entranceway landscaping constructed by the Declarant or the Association for the general benefit of the Owners shall also be properly maintained by the Association.
- (b) The Association shall be permitted, if cost effective and consistent with prudent management practices to contract with a management company or the Golf Course Owner for the rendering of services to maintain the Common Areas.
- (c) Each Owner shall have the non-exclusive right and limited easement to use and enjoy the Common Areas, but only for the purposes for which such Common Areas are intended. Such right and easement shall be subject to this Declaration, to the Rules and Regulations of the Association, and to any restrictions or limitations contained in any deed or amendment to this Declaration which effect the Common Areas. Each Owner may delegate his or her right of use and enjoyment to his or her Family members, guests, and tenants, subject to reasonable regulation by the Board. An Owner shall be deemed to have made such delegation to the tenant of any leased Lot or Home.

#### **1.05 Restrictions on Trucks, Trailers, Boats and Recreational Vehicles.**

Trucks, trailers, boats and recreational vehicles (which shall include snowmobiles, trail bikes, travel trailers and vans, motor homes, dune buggies, and off-street motorized vehicles of every kind) shall not be parked, kept or stored on any Common Area nor shall any such truck, trailer, boat or recreational vehicle be parked, kept or stored on any Lot outside an enclosed garage without the prior approval of the Association, which approval may be withheld for any reason. Trucks, trailers and recreational vehicles shall not be used or operated within the Subdivision, except on dedicated streets, in accordance with applicable traffic laws.

#### **1.06 Animals and Pets.**

No livestock, poultry, reptile, or other animal of any kind shall be raised, bred or kept on any Lot or in any Home, except for dogs, cats, and other normal household pets which may be registered and approved by the Association from time to time (herein defined as "Pets"). Pets may be kept so long as not kept, bred or maintained for any commercial purpose or in an unreasonable number or manner which disrupts other Occupants within the Subdivision. The right of any Occupant to keep such a Pet shall not be unreasonably withheld. Occupant shall not be permitted to allow Pets to be unattended, unleashed or to otherwise run at large and are responsible for maintaining and cleaning up after their Pets at all times.

### **1.07 Garbage and Refuse.**

No trash, garbage, or debris of any kind shall be dumped or stored on the Subdivision except for temporary storage in sanitary covered containers as required in the Rules and Regulations. There shall be no burning or burial of any garbage, trash, or debris at any time, except as otherwise provided in the Rules and Regulations.

## **ARTICLE II CONSTRUCTION AND ALTERATION OF IMPROVEMENTS**

### **2.01 Architectural Guidelines.**

- (a) **Architectural Control Committee.** There is hereby established an Architectural Control Committee (the "ACC") which shall be responsible for the establishment and administration of Architectural Guidelines to carry out the purposes and intent of this Declaration. The ACC shall be comprised of the members of the Board of Directors or of representatives designed by the Board of Directors.
- (b) **Purpose.** The ACC shall review and either approve or reject all proposed Improvements and Common Improvements within the Subdivision, other than Improvements and Common Improvements installed or approved by Declarant and any such review by the ACC shall be in compliance with this Declaration and as further set forth in the Architectural Guidelines. The ACC shall exercise its best judgment to see that all added Improvements conform and harmonize with any existing Improvements and Common Improvements as to external design, quality and type of construction, materials, color, location, height, grade and finished ground elevation and all aesthetic considerations set forth in this Declaration or in the Architectural Guidelines. No Improvement or Common Improvement shall be erected, placed or altered in the Subdivision, nor shall any construction be commenced, until plans for such Improvement shall have been approved by the ACC under the procedures set forth in Section 2.02 of this Declaration; provided, however, that improvements and alterations which are completely within the interior of a Home may be undertaken without such approval, subject to Section 2.05 of this Declaration.
- (c) **Organization and Operation of Committee.**
  - (i) **Term.** The term of office of each member of the ACC selected by the Board shall be one year, commencing on the first day of the Association's fiscal year, and continuing until his or her successor has been appointed. Should an ACC member selected by the Board die, retire, resign, become incapacitated, or be removed, a successor shall be appointed by the Board.
  - (ii) **Chairman.** At such time as the ACC is appointed by the Board of Directors, the chairman of the ACC shall be the president of the Association if he or she is serving on the ACC; otherwise, the chairman of the ACC shall be elected from among the members of the ACC by

majority vote of the Board. In the absence of a chairman, the Board may elect a successor, or if the absence is temporary, a temporary successor.

- (iii) **Conduct and Notice of Meetings.** The chairman of the ACC shall take charge of and conduct all meetings of the ACC and shall provide for reasonable notice to each member of the ACC prior to any meeting. The notice shall set forth the time and place of the meeting, and notice may be waived by any member.
- (iv) **Voting.** The affirmative vote of a majority of the members of the ACC shall govern its actions and be the act of the ACC. A quorum shall consist of a majority of the members of the ACC.
- (v) **Expert Consultation.** The ACC may avail itself of such technical and professional advice and consultants as it deems appropriate.
- (d) **Expenses.** Except as provided below, all expenses of the ACC shall be paid by the Association. The ACC shall have the right to charge a reasonable fee for each application submitted to it for review, in an amount which may be established by the ACC from time to time, and such fees shall be collected by the ACC and remitted to the Association to help defray the expenses of the ACC's operation. In the event the required fee is not submitted to the ACC in conjunction with a submitted application, the ACC shall not act on the application until said fee is paid in full or waived by the ACC.
- (e) **Architectural Guidelines.** The ACC may from time to time adopt, establish, and publish Architectural Guidelines. The Architectural Guidelines shall not be inconsistent with the provisions of this Declaration, but shall more specifically define and describe the architectural standards for the Subdivision. Subject to the foregoing, the Architectural Guidelines may be modified or amended from time to time solely by the ACC. Further, the ACC, in its sole discretion, may excuse compliance with such requirements as are not necessary or appropriate in specific situations and may permit or require compliance with different or alternative requirements. Compliance with the architectural review process is not a substitute for compliance with governmental building and zoning regulations, and compliance with such regulations, and compliance with such regulations is not a substitute for compliance with the architectural review process.
- (f) **Procedures.** As part of the Architectural Guidelines, the ACC may make and publish such rules and regulations as it may deem appropriate to govern its proceedings.
- (g) **Limitation of Liability.** The ACC shall use reasonable judgment in accepting or disapproving all proposals, plans and specifications submitted to it. Neither the ACC, nor any individual ACC member, shall be liable to any Owner or other person for any official act of the ACC in connection with such proposals, plans and specifications, except to the extent the ACC or such individual ACC member

acted with malice or wrongful intent. Notwithstanding that the ACC has approved any such proposal, plans or specifications, neither the ACC or any of its members shall be responsible or liable to any Owner or contractor with respect to any loss, liability, claim, or expense which may arise by reason of such approval. Neither the Board, the ACC or any agent thereof, or Declarant or any of its partners, employees, agents, or consultants shall be responsible in any way for (i) the defects in any plans or specifications submitted, reviewed or approved in accordance with the provisions of this Declaration, or (ii) any structural or other defects in any work done according to such plans and specifications.

**2.02 Approval of Architectural Control Committee Required for all Improvements.**

- (a) No Home, garage or other Improvement of any kind shall be installed, erected, constructed or placed within the Subdivision (or altered or changed with respect to layout, location, or exterior design, appearance, color or material composition) without: (i) prior submission, at least thirty (30) calendar days in advance of desired approval, of detailed building and landscaping plans to the ACC which are sufficient and appropriate for its review; and (ii) written approval of such plans by the ACC. To be considered sufficient and appropriate for review by the ACC, such plans must include the following unless the ACC advises the Owner in writing to the contrary: construction drawings, plans and specifications (prepared by a qualified home designer or architect) showing dimensions, composition and color of exterior materials and equipment, if any; a site plan showing the location of the Improvement with respect to setbacks from lot lines and other Improvements; finish grade elevations, topography, drives, and existing plantings; a landscaping plan including a plan for completion of such work; and, such other data pertinent to such review by the ACC as it may reasonably request. The ACC may deny or withhold approval of any proposed Improvement if it determines, in its sole judgment, that any one or more of the general purposes specified in Section 1.02 of this Declaration will not be satisfied. In making such determination, the ACC shall consider all relevant factors, including, but not limited to, the following: material composition with other existing or contemplated Improvements; location with respect to topography and existing surroundings, setbacks, finished grade elevations, access, drainage and plantings; adequacy of documentation that the landscaping, as approved, will be completed in a timely fashion; and general aesthetics. Any Owner who causes or allows any Improvements to be constructed, installed, placed or altered on Owner's Lot without prior written approval of the ACC may be required to remove such Improvement in its entirety, at the Owner's expense. Without intending to limit the generality of the foregoing, it is intended that the exterior color of any portion of a Home or other Improvement may not be changed in any significant respect without the prior written approval of the ACC.
- (b) Construction of an approved Home or Improvement must commence and be completed within the time set forth in Section 2.22 of this Declaration.

- (c) In the event the ACC fails to act upon proposed plans for a particular Improvement within thirty (30) calendar days following written acknowledgement by the ACC that it has received such plans and that they are adequate for purposes of its review, or in the event no suit to enjoin the erection, installation or change of the Improvement or to require removal thereof has been commenced within one year following final completion thereof, no right shall thereafter exist to enforce the requirements set forth in this Section 2.02 as to such Improvement.
- (d) To be binding or effective, any approval or permission of the ACC under this Declaration must be in writing and signed by the chairman or secretary of the ACC. No oral statements, representations or approvals of the ACC or any of its members or agents shall be binding on the ACC under any circumstances, regardless of any reliance thereof by any Owner or other person. The ACC's approval or disapproval of plans and other information submitted to it, or its decisions or other action with respect to any other matter properly before it, shall be conclusive and binding on all interested parties.
- (e) Within sixty (60) calendar days following substantial completion of construction or installation of any Improvement, the Owner shall furnish an as-built certified survey showing the location of the Improvement, if requested by the ACC.

#### **2.03 Construction and Alteration of Improvements.**

- (a) **General.** Except to the extent otherwise permitted in this Declaration, any construction, reconstruction, refinishing or alteration of any part of the exterior of any building or any other Improvement on the Subdivision other than by Declarant, is absolutely prohibited.
- (b) **Deemed Nuisances.** Every violation of this Section 2.03 is hereby declared to be and to constitute a nuisance, and every public and private remedy allowed for such violation by law or equity against an Owner or other offender shall be applicable and available to the Association and to any other Owner.
- (c) **Removal of Nonconforming Improvements.** The Association, after reasonable notice to the Owner or other offender, may, in its own right or as agent for each of the Owners, bring an action in law or equity to remove any Improvement constructed, reconstructed, refinished, altered, or maintained in violation of this Declaration, and the Owner of the offending Improvement shall reimburse the Association for all expenses incurred in connection with such action, including costs and attorneys' fees.

#### **2.04 Architectural Styles and Building Materials.**

Individuality and quality of design and construction of Improvements with traditional architectural styles, including East Coast shingle, Williamsburg, Craftsman Style, Cape Cod, Bungalow, French Country and English Country are encouraged and promoted by the ACC and the Architectural Guidelines. Modern, Contemporary, Mediterranean and Spanish styles are discouraged and may be restricted or prohibited by the ACC and the Architectural Guidelines.

All exterior building materials shall be natural materials and all roofing shall consist of cedar shakes or 30 year dimensional asphalt shingles. The use of wood, timbers, fieldstone and brick is and shall be encouraged and promoted. The ACC has the exclusive authority to approve materials such as but not limited to cultured stone and brick, composite siding and trim, synthetic stucco and other materials as deemed acceptable by the ACC.

#### **2.05 Minimum Architectural Standards for Homes and Garages.**

- (a) Each Home shall have a minimum living area (exclusive of basement, attic, garage, porches, patios, and storage area):
  - (i) of not less than two thousand (2,000) square feet for a one-story Home;
  - (ii) of not less than two thousand four hundred (2,400) square feet for a two-story Home.
- (b) Each Home shall have a basement with a floor area (exclusive of any crawl space) of not less than sixty percent (60%) of the area of the first floor.
- (c) No Home shall exceed two and one-half stories (excluding the basement) or thirty-five (35) feet in height above finished grade, whichever is less.
- (d) An attached enclosed garage (for at least two (2) and not more than three and one-half (3 ½) cars shall be constructed at the time of construction of the Home and all exterior portions of such garage shall be completed prior to occupancy of the Home. Garage doors shall be side or front entry; in either case the garage may not protrude beyond the front of the Home. Front entry garages should be set back from the front elevation of the House. Side entry garages must be set back an adequate distance from the property line to allow for vehicle maneuvering. Garages shall have door openings for each car, except double doors are permissible.

The requirements set forth in this Section 2.05 may be modified by the ACC in situations resulting from unusual building or Lot conditions or aesthetic or other factors deemed appropriate by the ACC, in its sole discretion.

#### **2.06 Location and Set Back of Homes and Garages.**

- (a) No Home or garage (including caves, steps, overhangs and attached porches, patios and other appurtenances) shall be located on any Lot:
  - (i) closer than twenty-five (25) feet to the front line of the Lot at any point;
  - (ii) closer than fifteen (15) feet to one side street line at any point; and fifteen (15) feet to the other side street line at any point;
  - (iii) closer than fifteen (15) feet to one side Lot line adjoining another Lot at any point; and fifteen (15) feet to the other side Lot line adjoining another Lot;

- (iv) closer than fifty (50) feet to the rear line of the Lot at any point for Lots with golf course frontage; thirty-five (35) feet for those without frontage;
- (v) closer than thirty (30) feet to any other Home at any point;

Home positions which are neither parallel to the street or neighboring houses are and shall be encouraged. The site plan for each Home and Lot, including the position of the Home, location of the driveway and landscaping plans must be approved by the ACC prior to submission of building plans to the City for its approval.

- (b) Approval by the plan commission or building inspector of the City with respect to setbacks or other matters shall not be binding on the ACC in any respect.
- (c) Notwithstanding the set-back requirements specified above, the orientation and precise location of each Home and garage, as well as all other Improvements on the Lot, must be approved in writing by the ACC prior to any construction, it being intended that the ACC may, in its discretion, impose greater set-back requirements than those specified above in order to achieve or maintain an aesthetic appearance for the Subdivision or any portions thereof which the ACC deems advisable.
- (d) The ACC may permit Improvements (other than the Home and garage) to be constructed, installed and located within the set-back areas described above, provided, such permission must be in writing to be effective.
- (e) Individual setback requirements in this Section 2.06 may be modified by the ACC in situations resulting from unusual building conditions, Lot dimensions, aesthetic or other factors deemed appropriate by the ACC, in its sole discretion.

#### **2.07 Grading, Landscaping and Drainage.**

- (a) Grading and landscaping plans for each Lot must be developed by or approved in advance by an architect designated for that purpose prior to submission to the ACC for approval in conjunction with building plans.
- (b) All grading and landscaping shall be completed (in accordance with the plan approved by the ACC within twelve (12) calendar months) following the issuance of the occupancy permit for the Home. If the approved grading and landscaping is not completed within twelve (12) calendar months from the date of the occupancy permit, the Owner shall be liable for penalties to the Association in the amount of \$300 for each month, or portion of a month, of non-completion. For its own benefit, to ensure compliance, the ACC may at its discretion also require performance bonds from the contractors involved.
- (c) Final grading elevations and drainage easements must conform with Declarant's approved master grading plan relating to the Subdivision to avoid a substantial increase in surface water drainage onto adjoining streets and to encourage drainage away from adjoining Lots. The Association shall have the right to direct



disposal of any soil or ground, and to require that any site development not block any drainage. Underground sprinkler systems are permitted subject to approval by the ACC.

- (d) No fence, wall, hedge, or screen planting shall be installed unless decorative in nature and in accordance with landscaping or other plans approved in advance by the ACC under Section 2.02. The erection of a fence on a Lot is considered an Improvement requiring approval of the Architectural Control Committee, and, in the case of fences on a Lot which abuts the Golf Course, the prior express written consent of the Golf Course Owner is required.
- (e) Front yards in non-wooded lots, including side yards on corner lots, should be maintained lawns and only portions of back and side yards may be left natural and must be approved by the ACC. Preservation of natural areas on wooded lots shall be encouraged. This will include leaving as much of the Lot wooded as possible in the back, sides, and if desired, front yard.
- (f) No landscape plantings (including trees planted by Owner of the Association) shall be altered or removed without prior written approval of the ACC. No existing tree with a diameter of four (4) inches or more, at a height of four (4) feet from the ground and beyond twenty (20) feet from the approved dwelling location, shall, without approval of the ACC, be cut down, destroyed, mutilated, moved or disfigured and all existing trees shall be protected during construction and preserved by wells or islands, and proper grading in such matter as may be required by the ACC.

#### **2.08 Driveways.**

Each Lot shall be improved by the Owner with a black-topped asphalt or concrete driveway extending from the street to the garage within twelve (12) calendar months following issuance of an occupancy permit for the Home. Prior to construction, a site plan showing the location of the driveway and the type (i.e. asphalt or concrete) and color of the driveway shall be submitted to the ACC for its prior approval under Section 2.02 above.

#### **2.09 Storage of Construction Materials.**

No construction or building materials shall be stored on any Lot outside of the Home or garage, other than during periods of actual construction or remodeling and then only for so long as may be necessary for the purpose of such construction or remodeling. Excess excavated materials shall not be stored on any Lot during or after construction without the prior approval of the ACC, unless required for back filing, finish grading, or landscaping.

#### **2.10 Water Supply.**

Each Home shall be connected to the City water system and no individual wells shall be used or permitted.

### **2.11 Sewerage Disposal.**

Each Home shall be connected with the City or other common sewer system and no septic tank or other individual sewerage system shall be used or permitted on any Lot within the Subdivision.

### **2.12 Garbage Disposal.**

Each Home shall be equipped with a garbage disposal connected to the sanitary sewer, or otherwise pursuant to code. No incinerator or incineration system for burning garbage or debris shall be used or permitted.

### **2.13 Wires, Antenna and Solar Panels.**

- (a) All utility lines and wiring for gas, electric, telephone or cable television service to a Home, garage or other Improvement shall be installed underground, unless otherwise permitted by the ACC, prior to installation.
- (b) No roof-top, tower mounted or other external antenna or satellite dish for television or radio reception or for other electronic transmission or reception, and no solar heating panels shall be erected or used on any Lot without the prior written approval of the ACC.
- (c) Entertainment or communication satellite dishes less than three (3) feet in diameter may be installed without ACC approval if not visible from roads and Common Areas.

### **2.14 Mailboxes and Outdoor Lighting.**

Each Owner shall be required to purchase and install a mailbox selected by Declarant and if no mailbox has been selected by Declarant, then any other mailbox must be approved by the ACC. The Owner shall be responsible for installation and maintenance of the mailbox at locations selected and approved by the Declarant or the ACC to ensure harmony of appearance in the Subdivision. Any and all outdoor lighting must also be approved by the ACC.

### **2.15 Vehicles.**

- (a) No outdoor parking of vehicles shall be permitted anywhere on the Subdivision except in driveways or marked parking spaces, if any, except for parking as necessary in connection with the construction or reconstruction of a Home. Exterior storage of trailers, campers, camping trucks, boats or other marine craft, house trailers, motorcycles, mopeds, motorized bicycles, snowmobiles, land vehicles, inoperative or unlicensed vehicles or the like shall not be permitted in the Subdivision. No vehicle maintenance or lubrication shall be permitted anywhere in the Subdivision, except washing of cars in driveways or maintenance performed within a garage. No playground equipment, bicycle racks or other obstructions may be placed on the Common Areas except as permitted by the Rules and Regulations.

- (b) No commercial or recreational vehicles shall be parked in driveways in the Subdivision, except commercial vehicles temporarily parked in the ordinary course of business. Commercial vehicles include both vehicles licensed as such and vehicles otherwise licensed but which contain commercial advertising as part of the finish or as an attachment. Recreational vehicles include boats, trailers, campers and vehicles licensed as recreational vehicles.

**2.16 Waste.**

Accumulations of waste, litter, excess or unused building materials or trash other than in appropriate receptacles complying with the Rules and Regulations is prohibited and garbage containers shall be situated only in locations designated by the Association or where required by the City ordinances. Lots shall be kept free of debris during construction of Improvements thereon.

**2.17 Temporary Structures.**

No structure, trailer, tent, storage facility or barn, temporary or otherwise, shall be placed or maintained on any portion of a Lot without written approval of the Board, except for construction trailers maintained by Declarant or the Association.

**2.18 Quiet Enjoyment.**

Each Owner shall have the right to use its Lot in accordance with this Declaration and applicable law, free from unreasonable interference from each other Owner, all Occupants and other invitees. No person shall cause or permit the Common Areas to be used so as to deny any Owner or Occupant the full use of the Common Areas.

**2.19 Patios and Balconies.**

Patios, decks and balconies shall not be used for (i) storage of any kind, including, but not limited to, the storage of motorcycles, baby carriages, bicycles or wagons, or (ii) the drying or airing of laundry, carpets, rugs or clothing.

**2.20 Signs.**

No Owner may erect, post or display posters, signs, or banners or advertising material on the Common Areas or at locations within or on a Lot, Home or other Improvement, which are visible from the public streets or Common Areas without the prior written consent of the Board, except (i) Declarant may do so without such approval, and (ii) an Owner may erect or post a temporary sign of customary and reasonable dimension relating to the sale or lease of a Lot not exceeding more than six (6) square feet. Where Board consent is sought and obtained, the permitted signs will be erected and maintained in accordance with all ordinances, rules, regulations and conditions applicable thereto. "Signs" as used herein shall be construed and interpreted in the broadest possible sense and shall include, but not be limited to, any placard, posters or other such devices as may be affixed to the interior of any exterior of windows so as to be visible from the exterior of a Home or Improvement.

## 2.21 Compliance with Laws.

Each Lot Owner and Occupant shall comply with all applicable governmental statutes, ordinances, regulations or rules relating to the use of the Owner's Lot and Home, including but not limited to the storage, transport and release of any substance or compound governed by any one or more of Federal laws; Wisconsin statutes or regulations, City ordinances and any other laws relating to the storage, transport or release of hazardous substances, compounds or recyclable materials.

## 2.22 Construction of Improvements.

- (a) **Conveyance of Undeveloped Lots.** Declarant may convey Undeveloped Lots. Each Owner, except the Declarant, of an Undeveloped Lot shall construct a Home and Improvements on such Undeveloped Lot that conforms to the requirements of this Declaration and to the construction plans and specifications approved by the ACC (the "Approved Plan"). Any subsequent alteration or modification to such Approved Plan must be approved in writing by the ACC prior to construction. The Association shall have the right to bring an action at law or equity to remove or correct any part of a Home or Improvement constructed by Owner which is not in compliance with the requirements of this Declaration, the Approved Plan or any ACC approved alteration thereof.
- (b) **Timetable to Construct Home and Declarant's Right to Repurchase.** By acceptance of a deed for an Undeveloped Lot, each Owner of an Undeveloped Lot covenants to commence and complete construction of a Home in accordance with the timetable set forth below in this Section 2.22(b) ("Construction Schedule"). Each such Owner shall commence construction of a Home twenty-four (24) calendar months after the date of the initial conveyance of the Undeveloped Lot by Declarant to each such Owner (herein referred to as the "Initial Date"), and shall complete construction of a Home within thirty-six (36) months of the Initial Date. For purposes of this Section 2.22(b), a Home shall be deemed complete upon the delivery to Declarant of the Owner's Certificate of Completion pursuant to Section 2.22(d) hereof and a copy of the certificate of occupancy for such Home, issued but the City. If any such Owner fails to comply with his or her Construction Schedule, Declarant may, at its option, at any time after such Construction Schedule's twenty-four (24) or thirty-six (36) month period expires, whichever applies, but prior to completion of such Home, repurchase the Lot for a repurchase price equal to:
  - (i) the initial purchase price of the Undeveloped Lot paid by the Owner, without interest and less Declarant's selling expenses and administrative costs of such initial sale as set forth on the closing statement for the sale of the Undeveloped Lot to the Owner, plus,
  - (ii) if the Owner has begun construction of a Home, eighty-five percent (85%) of the value of any Improvements, whether completed or uncompleted, existing on the Undeveloped Lot as of the date no more than 60 days and no less than 30 days from the date of reconveyance to Declarant. The

value of such Improvements shall be the fair market value determined by a qualified appraiser selected by Declarant and the Owner (collectively the "Parties" or individually the "Party"). The cost of such appraiser shall be split equally between the Parties. If the Parties cannot agree on the choice of an appraiser, each Party shall select an appraiser, and the two appraisers so selected shall select a third appraiser. All three appraisers shall render an appraisal of the fair market value of the Improvements and the value of the Improvements shall be the average of the two appraisals that are closest to each other in amount. Each Party shall pay the cost of the appraiser selected by such Party and fifty percent (50%) of the cost of the third appraiser. If the failure of Owner to complete construction of a Home in accord with such Owner's Construction Schedule is due to circumstances (other than financial) beyond the control of such Owner, such Owner may request in writing to Declarant that Declarant grant an extension of such Construction Schedule and such request shall state the circumstances that caused the construction delay and the estimated time necessary to complete construction of the Home. Declarant may grant such request subject to Declarant's sole discretion.

Declarant's right to repurchase an Undeveloped Lot under this Section 2.22 shall be subordinate to and shall not impair, hinder or otherwise affect the rights of any Mortgagee.

Except as provided in the preceding paragraph, no conveyance of an Undeveloped Lot by an Owner (other than Declarant) to a Purchaser (other than Declarant) shall toll, reinstate or in any other way affect the running of the time periods set forth in the Construction Schedule, or any extensions thereof, established for the Undeveloped Lot conveyed. Any such Purchaser from such Owner shall take the Undeveloped Lot subject to the Construction Schedule established for such Undeveloped Lot and Declarant's right to repurchase such Undeveloped Lot as hereunder provided.

Each Owner of an Undeveloped Lot, by acceptance of a deed thereto, covenants to re-convey such Undeveloped Lot to Declarant pursuant to the terms and conditions of this Section 2.22, by warranty deed, free and clear of all liens and encumbrances except any in existence prior to the Owner's ownership of the Undeveloped Lot.

- (c) **Use of Construction and Utility Easement.** During construction of a Home by Owner, such Owner shall be entitled to the use of any construction or utility easement reserved by or granted to Declarant pursuant to this Declaration. Any such use by an Owner shall be limited to such use as is reasonably required for the construction of such Owner's Home and to the extent that it does not unreasonably interfere with the concurrent use of any such easement by Declarant or by other Owner entitled to such use.

- (d) **Certificate of Completion.** After construction of a Home by an Owner is completed, the Owner shall deliver to the Association, in duplicate, a certificate certifying that the construction of the Home is complete ("Certificate of Completion") executed by the Owner's general contractor, architect or some other qualified individual acceptable to the Association,
- (e) **Prohibition Against Changes by Owner.** After an Owner executes and delivers to the Association a Certificate of Completion, such Owner shall not, without first obtaining the written consent of the ACC, make or permit to be made any alterations, changes or improvements to the exterior of the Owner's Home. Subject to this Section 2.22 and Section 3.10 of this Declaration, an Owner shall not perform, or allow to be performed, any act or work on the Lot which would impair the structural soundness or integrity of any Improvements or the safety of the Subdivision, or impair any easement, or affect the Common Areas in any way.

#### **2.23 City of Sheboygan Falls Approval.**

Obtaining approval from the ACC and from the City and any other required governmental entity shall be the responsibility of the Owner or Occupant desiring approval. Any approval obtained or given by the ACC to any Owner or Occupant prior to final approval obtained by the Owner or Occupant from the City or any other required governmental entity shall not be effective until the City and any other governmental approvals have been obtained.

#### **2.24 Waiver of Certain Rights.**

By acceptance of a deed of conveyance for a Lot, each Owner relinquishes and waives any present or future objection to, and all of his or her rights to oppose the zoning, rezoning or requests for variances or conditional or special uses or exceptions affecting all or any portion of the Subdivision or any Additional Property subject to Declarant's Expansion Right.

### **ARTICLE III THE ASSOCIATION, ASSESSMENTS AND INSURANCE**

#### **3.01 Association of Owners.**

Each Owner, by virtue of ownership of his or her Lot, shall be entitled and required to be a member of the Association. When an Owner consists of more than one person, the membership and voting rights in the Association appurtenant to such Owner's Lot shall be held in common by such persons. Moreover, voting rights of such persons shall be limited as provided below. The Association, through the Board of Directors, shall be responsible for carrying out the purposes of this Declaration, including the management and control of the Common Areas. The Association shall be incorporated as a non-stock, non-profit corporation under the laws of the State of Wisconsin. Each Owner and all Occupants, and any persons having or claiming any interest in a Lot, shall abide by and be subject to all of the rules, regulations, duties and obligations set forth in this Declaration and the Bylaws and Rules and Regulations of the Association.

- (a) **Voting Rights.** Each Owner is entitled to vote on all matters upon which Owners are entitled to vote pursuant to this Declaration and in accordance with the Bylaws of the Association, Each Owner is entitled to one vote for each Lot owned. When an Owner consists of more than one person, the vote for such Lot shall be exercised as such co-owners among themselves determine, but in no event shall more than one vote be cast with respect to any Lot. There shall be no split vote. Each Owner shall file with the Secretary of the Association a certificate stating the Owner's name and current mailing address and naming the individual who shall be authorized to cast the vote allocated to the Lot ("Voting Certificate"). Such Voting Certificate, and any subsequent amendment thereof, shall be signed by all Owners of record of the Lot, or by the duly authorized agents or attorneys in fact of such Owners. Upon the filing of such Voting Certificate, the individual so named shall, until another individual is named in a duly executed amendment to the Voting Certificate, be recognized by the Association as the person entitled to cast the vote appurtenant to the Lot. If a Voting Certificate is not on file for any Owner, the vote of such Owner shall not be considered in determining the presence of a quorum or for any other purpose. The foregoing notwithstanding, any one of the co-owners of a Lot who purports to cast the vote allocated to that Lot shall be conclusively presumed to be authorized to cast such vote unless protest is made promptly by any of the other co-owners of the Lot to the person presiding over the meeting, or until any one of such co-owners files a statement with the Secretary of the Association stating that thereafter the vote may only be cast by the individual named in a Voting Certificate filed under this Section 3.01.

The individual authorized in any such Voting Certificate to cast the vote allocated to a Lot may cast such vote by a proxy as provide in the Bylaws. If the Declarant exercises its option to expand the Subdivision pursuant to Section 4.01 of this Declaration, the total number of votes in the Association shall be increased by the number of Lots so added and each Owner shall have one vote.

- (b) **Declarant Control.** Notwithstanding the voting rights granted to Owners under this Declaration, Declarant shall have the right to appoint and remove directors of the Association as provided in the Bylaws during the Period of Declarant Control. The "Period of Declarant Control" shall be the period beginning on the date that this Declaration is recorded with the Sheboygan County Register of Deeds and ending upon the first to occur of the following:
- (i) twenty (20) years after the date of recording of this Declaration, or
  - (ii) thirty (30) days after the first date on which all Lots within the Subdivision (including any property added to or created by the Expansion Right recorded prior to such date) have been conveyed by the Declarant to Purchasers, or

- (iii) any other date hereafter specified by the Declarant, in a written notice delivered to the Association, as the date of expiration of the Period of Declarant Control.

### 3.02 Powers and Rights of the Association.

- (a) **Association Powers.** The Association shall have all of the powers enumerated in the Wisconsin Non-stock Corporation Law, Chapter 181 of the Wisconsin Statutes, to the extent not inconsistent with the Bylaws including, but not limited to the following:
  - (i) To exercise exclusive management and control of the Common Areas;
  - (ii) To maintain, repair, improve, construct, replace, reconstruct, operate and protect the Common Areas as set forth in this Declaration;
  - (iii) To provide or contract for the provision of maintenance services for the Subdivision and to hire and discharge a management firm for the provision of said services;
  - (iv) To hire, engage, employ or discharge such persons or entities as it may deem necessary or advisable to assist in the management of its affairs or to properly effectuate the duties and responsibilities of the Association as set forth in this Declaration;
  - (v) To determine, levy and collect Assessments against the Owners and use the proceeds thereof in the exercise of its powers and duties, including without limitation, the payment of the Common Expenses;
  - (vi) To institute, defend or intervene in litigation or administrative proceedings in its own name on behalf of itself or Owners on matters affecting the Subdivision;
  - (vii) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer or dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
  - (viii) To purchase insurance for the benefit of the Association and its members as set forth in this Declaration;
  - (ix) To make and amend reasonable regulations governing the use and operation of the Subdivision including Common Areas in the manner provided in this Declaration including, but not limited to, the Rules and Regulations and the Architectural Guidelines;



- (x) To enforce by any legal means, whether in its own right or as the agent of the Owners, the provisions of this Declaration, the Bylaws, and any Rules and Regulations governing the use and operation of the Subdivision;
  - (xi) To establish and maintain one or more bank accounts for deposit and withdrawal of the funds of the Association;
  - (xii) To do all things necessary or convenient to effectuate the purposes of this Declaration;
  - (xiii) To do any and all things permitted by the Wisconsin Non-stock Corporation Law;
  - (xiv) To make contracts and incur liabilities subject to any restrictions or conditions contained in the Bylaws of this Declaration; and
  - (xv) To grant easements through or over the Common Areas.
- (b) **Entry for Repairs and Maintenance.** The Association may enter any Lot at reasonable times and under reasonable conditions when necessary to perform any required maintenance, construction, repair or other matter for which the Association is responsible.
- (c) **Implied Rights.** The Association may exercise any right, power or privilege given to it expressly by this Declaration or the Bylaws, and every other right, power or privilege reasonably to be implied from the existence of any right, power or privilege given to it herein or reasonably necessary to effectuate any such right, power or privilege.
- (d) **Delegation to Board of Directors.** All the powers, rights and duties of the Association existing under this Declaration, the Articles of Incorporation and the Bylaws shall be exercised exclusively by the Board of Directors, its agents, contractors or employees. The decisions of the Board shall be subject to approval by Owners only when such approval is expressly required by the Bylaws or this Declaration.

### 3.03 Rules and Regulations.

The Subdivision shall be used only for residential, recreational and related purposes as may more particularly be set forth in this Declaration. The Board of Directors may establish Rules and Regulations concerning the use of the Subdivision and may from time to time add to, supplement or amend such Rules and Regulations. Copies of such Rules and Regulations, and of any additions, supplements or amendments thereto, shall be furnished by the Association to all Owners prior to the effective date thereof. Each such Rule or Regulation shall be binding upon all Owners, their Family members, tenants, guests, invitees, and agents until and unless such Rule or Regulation shall be specifically overruled, cancelled, or modified by the Board. The Board of Directors shall have the authority to impose reasonable monetary fines and other sanctions for violations of Rules and Regulations, and such monetary fines may be collected in

the same manner as Special Assessments. The Association, acting through its Board of Directors, shall have standing and the power to enforce any and all restrictions contained in this Declaration and the Rules and Regulations.

### **3.04 Allocation and Liability for Common Expenses.**

Common Expenses of the Association are, and shall include, Common Area Expenses, as hereinafter defined, and all other costs and expenses of the administration of the Association, of fees and other compensation paid to any management firm contracted by the Association to carry out the Association's obligations hereunder, and of the maintenance of any reasonable reserves established by the Association. "Common Area Expenses" are, and shall include, all costs and expenses of the Association attributable to maintaining, improving, policing or preserving the Common Areas, including, but not limited to, the costs of utilities, insuring, repairing, maintaining, landscaping or improving the Common Areas, together with such portion of the costs and expenses of the administration of the Association and of fees and other compensation paid to a management firm as is attributable to the foregoing. Each Lot and its Owner is hereby allocated an equal share of the liability for Common Expenses of the Association. In addition, a Lot and Owner may become subject to Special Assessments in accordance with Section 3.06 and other provisions of this Declaration. The Association shall make and levy Assessments equally against each Lot and its Owner for the Common Expenses. Lots added to the Subdivision pursuant to an Expansion Right shall become liable for Common Expenses in the first fiscal year of the Association following the recording of the Expansion Right. No Owner may be exempted from liability for payment of such Assessments by such Owner's waiver or discontinuance of the use or enjoyment of any of the Common Areas or services, or by the abandonment of his or her Lot or by the non-existence or incomplete construction of any Home or other Improvement on such Lot; and no conveyance by an Owner of his or her Lot shall relieve the Owner of such liability, and he or she shall jointly, severally and personally be liable along with his or her grantee in any such conveyance for all unpaid Assessments made prior to the date of sale. All Assessments, when made, shall immediately become a personal debt of the Owner until paid and shall constitute a lien against the Lot to which charged in accordance with Section 3.06 (f) of this Declaration.

### **3.05 Rights to Common Surpluses.**

Common Surpluses shall be credited to the Owners' Assessments for Common Expenses in proportion to their share of liability for Common Expenses, or shall be used for any other proper purpose as the Association, by the Board of Directors, may decide.

### **3.06 Assessments.**

- (a) **Purpose of Assessments.** The Assessments for Common Expenses provided for herein shall be used for the general purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and occupants of the Homes. Such Assessments shall be fixed, established and collected from time to time in the manner provided by this Section 3.06. Assessments may be used to compensate officers and directors only if approved by Owners holding seventy-five percent (75%) of the votes in the Association.

- (b) **Obligation for Payment of Assessments.** Each Owner, by acceptance of a deed for his or her Lot, whether or not so expressed in such deed, is deemed to covenant and agree to pay to the Association all amounts duly levied against the Owner hereunder for: Annual Assessments, Special Assessments and all other fees, charges (including late charges) and assessments provided for hereunder. All Assessments shall include all late charges, interest at the maximum amount permitted by law on delinquent payments, and all reasonable attorneys' fees and costs actually incurred in the collection thereof. Each Owner shall be personally liable for his or her portion of each Assessment coming due while he or she is the Owner, and his or her grantee (subject to paragraph (h) of this Section 3.06) shall be jointly and severally liable for any unpaid portion thereof at the time of any conveyance. Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors. Unless otherwise provided, the Annual Assessments shall be paid in equal monthly installments due on the first day of each calendar month.
- (c) **Computation of Operating Budget and Annual Assessment.** It shall be the duty of the Board at least sixty (60) calendar days prior to the beginning of the Association's fiscal year to prepare a budget setting forth the estimated Common Expenses for the upcoming year. Such budget shall specify or set forth, apart from all other Common Expenses, the expenditures comprising or attributable to Common Area Expenses. The Board shall notify Owners of the budget and the statement of the Annual Assessment to be levied against each Owner for each fiscal year of the Association to be delivered to each Owner at least thirty (30) calendar days prior to the beginning of such fiscal year. Such statement shall specify the amount of the portions of the Annual Assessment which is attributable to Common Area Expenses. As long as Declarant owns a Lot, any increase of five percent (5%) or more from the prior year's operating or capital budget which has been approved by the Association, is subject to Declarant's written consent prior to implementation. In the event Declarant does not consent to any such increase of 5% or more, the Declarant and the Association shall submit the dispute to a independent third party mediator who shall determine whether or not any such increase in the operating or capital budget is reasonable. Provided Declarant's consent has been obtained, if necessary, the budget and the Annual Assessment shall take effect without a meeting of the Owners unless the Board makes a determination that such a meeting is required by law, including the provisions of applicable lien statutes, or is otherwise in the best interests of the Association and its members. If the Board makes such a determination, the budget and the Annual Assessment for each fiscal year shall take effect when approved at a meeting of the members of the Association, or adjournment thereof, by a majority of votes of members present in person or by proxy at such meeting, or by such greater number of votes as may be required by applicable law. Unless otherwise required by applicable law, such meeting may be called as a special meeting of the members.
- (d) **Capital Budget and Contribution.** The Board of Directors may also prepare annually a capital budget which shall take into account the number and nature of

replaceable assets owned or managed by the Association (including, but not limited to, assets comprising the Common Areas, any improvements thereto, or any equipment facilities or other property held by the Association for the purpose of carrying out its responsibilities under this Declaration), the expected life of each such asset, and the expected repair or replacement cost thereof. The Board shall set the required capital contribution, if any, in an amount sufficient to permit meeting the projected capital needs of the Association, as shown on the capital budget, for such year. The capital contribution required shall be fixed by the Board and shall be included in the budget and Annual Assessments provided for in Section 3.06 (c). A copy of the capital budget shall be distributed to each Owner in the same manner as the operating budget.

- (e) **Special Assessments.** If the Annual Assessments prove inadequate for any year, the Board may, on thirty (30) calendar days advance notice to the Owners, levy a Special Assessment against all Owners. If a Special Assessment is required for an expense only benefiting specific Owners and not others, the Board may levy those amounts as Special Assessments against the Owners benefiting therefrom. If a Special Assessment against any particular Owner is required, such Assessment shall be considered a Special Assessment against that Owner only. Unless otherwise provided by the Board of Directors, a Special Assessment levied against an Owner shall be due and payable in full thirty (30) calendar days after delivery to the Owner of a written notice of such levy setting forth the amount of such Special Assessment.
- (f) **Liens for Assessments.** The Association shall have full and complete lien rights as provided or permitted by this Declaration and by applicable statutes:
  - (i) All Assessments, until paid, together with interest on them and actual costs of collection, constitute a lien on the Lots against which they are assessed, if a statement of lien is recorded within two (2) years after the date the Assessment becomes due. The lien is effective against the Lots at the time the Assessment becomes due regardless of when, within the two (2) year period, it is recorded. A statement of lien may be filed by the Association with the Register of Deeds of Sheboygan County, Wisconsin, identifying the Lot, the name of the Owner, the amount due and the period for which the Assessment was due. The statement of lien shall be signed and verified by the president or secretary of the Association and then may be recorded. Each Owner, by acceptance of a deed or other conveyance for his Lot, irrevocably consents to the recording of such a statement of lien in accordance with this Section 3.06 (f) and irrevocably appoints and designates the president or secretary of the Association as such Owner's agent and attorney-in-fact to sign any such notice of lien on the Owner's behalf, as grantor, if such signature is required in order to record the statement of lien. On full payment of the Assessment for which the lien is claimed, the Owner shall be entitled to a recordable satisfaction of the lien.

- (ii) The lien described in the preceding paragraph may be enforced and foreclosed by the Association in the same manner, and subject to the same requirements, as a foreclosure of mortgages on real property in this state. The Association may recover costs and reasonable attorneys' fees, The Association may bid on the Lot at foreclosure sales and acquire, hold, lease, mortgage and convey the Lot. The Association may maintain a suit to recover a money judgment for unpaid Assessments without foreclosing or waiving any lien securing the same. No action may be brought to foreclose a lien unless brought within three years following the recording of the statement of lien. No action may be brought to foreclose a lien except after ten (10) calendar days prior written notice to the Owner given by certified mail, return receipt requested, as described in Section 8.01 of this Declaration.
  - (iii) A statement of lien is sufficient for the purposes of this Section 3.06 (f) if it contains the information and is substantially in the form set forth in Exhibit B attached hereto.
  - (iv) In addition to the lien described above, the Association shall have full and complete lien rights under Section 779.70 of the Wisconsin Statutes with respect to such portion of each Owner's Assessments as constitutes or is attributable to Common Area Expenses. The Association may avail itself of the rights and remedies afforded by that statute, and by any other applicable statute, in addition to or, at its option, in lieu of the other lien rights granted by this Declaration.
- (g) **Delinquent Assessments.** All Assessments and late charges not paid on or before the due date shall be delinquent, and the Owner shall be in default.
- (i) If any monthly installment of Annual Assessments or any part thereof is not paid in full by the tenth (10th) day of the month such installment is due, or if any Special Assessment or other charge is not paid within ten (10) days of the due date, a one time late charge on such delinquent payment equal to the greater of Twenty Dollars (\$20.00) or ten percent (10%) of the amount not paid, or such higher amounts as may be authorized by law, may be imposed without further notice or warning to the delinquent Owner, and interest at a rate to be established by the Board, which shall not exceed the maximum rate allowed by law, may, at the Board's discretion, accrue thereon from the due date.
  - (ii) When payment for delinquent Assessments and related Assessments and related charges is made, the amount received shall be applied in the following order, and no restrictive language on any check or draft shall be effective to change the order such application:
    - (1) to any unpaid late charges;

- (2) to costs of collection, including reasonable attorneys' fees, actually incurred by the Association;
- (3) to any unpaid interest charges;
- (4) to unpaid installments of Assessments applying such payment first to the oldest installments then due.

However, none of the above shall restrict or impair the Association's ability and right to settle any claim on terms acceptable to the Board of Directors.

- (iii) If Assessments and related charges or any part thereof due from an Owner remain delinquent and unpaid for a period greater than fifteen (15) calendar days from the date due, a "Notice of Delinquency" may be given to that Owner which shall state that if the Assessment or charge remains delinquent for more than ten (10) calendar days from the date of the Notice of Delinquency, the Association, acting through the Board of Directors may accelerate and declare immediately due all of that Owner's unpaid monthly Assessment installments for that fiscal year.
  - (iv) If Assessments and related charges or any part thereof remain unpaid more than thirty (30) calendar days after the Assessment payments first become delinquent, the Association, acting through the Board of Directors, may institute suit to collect all amounts due pursuant to the provisions of this Declaration and the Bylaws and suspend the Owner's right to vote on Association matters and to use the Common Areas (provided, however, the Board may not limit ingress or egress to or from a Lot or a Home) and the provision of any services to or for the benefit of the Owner, whether or not a Notice of Delinquency has been sent, as provided above.
- (h) **Statement of Account.** Each Owner, each grantee, transferee or Mortgagee of a Lot, each person who has executed a contract for the purchase of a Lot, and each lender considering a loan to be secured by a Lot shall be entitled, upon written request, to a statement from the Association setting forth the amount of unpaid Assessments made against such Lot, including any late charges, interest, fines, or other charges. The Association shall respond in writing within twenty (20) business days of receipt of the request for a statement. The grantee of a Lot is not liable for any unpaid Assessments against the grantor in excess of the amount set forth in the statement described in this section, and any Lot conveyed shall not be subject to a lien which is not filed or recorded under Section 3.06 (f) of this Declaration for any unpaid Assessments against the grantor in excess of the amount set forth in such statement.

### **3.07 Owner Responsibility.**

Each Owner, at the Owner's sole cost, shall repair and replace any portion of the Common Areas damaged through the fault or negligence of such Owner or such Owner's family, guests, invitees

or tenants. Each Owner shall, at the Owner's cost and even if no residence has been constructed by such Owner, maintain the yard, including but not limited to the cutting of grass and snow removal from driveways and, if any, sidewalks, in an orderly and neat manner and shall maintain all Improvements on the Lot in good repair and condition.

### **3.08 Association Responsibility.**

The Association shall at its cost maintain in good condition and repair, replace and operate all of the Common Areas and Common Improvements, including landscaping, trees and plantings in the Common Areas and trimming of such trees for sight lines, except as expressly provided in Section 3.07.

### **3.09 Association and Owners' Responsibilities for Insurance.**

- (a) **Blanket All-Risk Insurance.** The Board of Directors of the Association shall have the authority to and shall provide and maintain, as a Common Expense, blanket all-risk insurance, if reasonably available, for all insurable property of the Association, including Improvements in the Common Areas. If blanket all-risk insurance is not reasonably available, then at a minimum, the Board shall make its best efforts to obtain an insurance policy providing fire and broad form extended coverage for the Common Areas. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the full replacement value of any such Common Improvements or other insurable property in the event of damage or destruction from any insured hazard.
- (b) **Additional Insurance.** In addition to the insurance required above, the Board shall obtain, to the extent reasonably available, with the costs thereof to be borne as a Common Expense:
  - (i) Worker's compensation insurance if and to the extent necessary to meet the requirements of applicable law;
  - (ii) General personal injury and property damage liability insurance providing coverage in an amount not less than one million dollars (\$1,000,000) per occurrence for injury, including death, and property damage covering the Association, the Board of Directors, officers, and all agents and employees of the Association, and all Owners and other persons entitled to occupy any Lot or other portion of the Subdivision. Such insurance shall contain a cross-liability endorsement;
  - (iii) Bonds covering officers, directors, employees, and other persons who handle or are responsible for handling Association funds. If reasonably available, such bonds shall be in an amount at least equal to no less than three (3) calendar months of operating expenses plus reserves on hand as of the beginning of the fiscal year and shall contain waivers of any defense based upon the exclusion of persons serving without compensation; and
  - (iv) Other insurance as the Board of Directors may determine to be necessary.

- (c) **Terms of Insurance.** The Board of Directors shall use every reasonable effort to secure policies that will provide the following:
- (i) that the insurer waives its rights of subrogation of any claims against directors, officers, any management firm hired by the Association, the Owners, and their respective family members, guests, licensees and tenants;
  - (ii) that the policies cannot be cancelled, invalidated, or suspended on account of the conduct of any director, officer, or employee of the Association or any management firm hired by the Association without a prior demand in writing delivered to the Association and to all mortgagees of Lots to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured; and
  - (iii) that any "other insurance" clause contained in the policy shall expressly exclude Owner's policies from its operation,
- (d) **Rating and Insurance Certificates.** All policies of insurance shall be written with a company authorized to do business in Wisconsin and holding a Best's rating of at least B plus. The company shall provide insurance certificates to each Owner and Mortgagee requesting the same in writing.
- (e) **Maximum Deductibles.** The policies may contain a maximum deductible of the lesser of ten thousand dollars (\$10,000) or one percent (1%) of the policy face amount. The deductible amount shall be added to the face amount of the policies in determining whether the insurance equals at least full replacement value. The Association's operating reserves shall maintain funds to cover deductibles.
- (f) **Insurance Requirements of Owners.**
- (i) Every Owner shall be obligated to obtain and maintain at all times casualty insurance providing fire and broad form extended coverage for the Owner's Lot, Home and other Improvements. Each policy of such insurance shall provide for notification of the Association by the insurer prior to any cancellation or non-renewal of such insurance.
  - (ii) Each Owner shall have the right to obtain coverage, at his or her own expense, for personal property located in his or her Home.
  - (iii) At the request of the Board of Directors, each Owner shall file a copy of each individual policy or policies covering all Improvements on Owner's Lot with the Association within ten (10) calendar days after receiving such request. Such Owner shall promptly notify, in writing, the Association in the event any such policy is cancelled or is not renewed.
  - (iv) Unless a lesser amount is approved by the Association, the amount of any insurance required hereunder to be maintained by the Owner shall in no



event be less than the full replacement cost of the Home and other Improvements. Upon the failure of any Owner to purchase insurance in the amounts and coverages required hereunder, or to pay the premium on any required insurance policy, the Association may, but shall not be obligated to, purchase such insurance or pay such insurance premium and charge the amount so paid by the Association, plus any service charge, to the Owner as a Special Assessment.

- (g) **Combined Protection.** If coverage is reasonably available to provide a combination of one or more of the coverages required hereunder to be obtained by the Association and the Owners, the Board of Directors is hereby given discretionary power to negotiate such combination of insurance protection on an equitable cost sharing basis under which each Owner may be assessed individually for the amount of insurance which he or she directs the Board of Directors to include in such policies for his additional protection. Copies of all such policies shall be provided to each Mortgagee requesting the same. Nothing contained in this paragraph shall be deemed to prohibit any Owner, at his or her own expense, from providing any additional insurance coverage on his or her property which will not duplicate any insurance provided by the Association. In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by Owners or their Mortgagees.

### 3.10 Destruction and Reconstruction.

Except as otherwise provided in this Section 3.10, in the event of a partial or total destruction of any Improvement, such Improvement shall be repaired and rebuilt as soon as practicable and substantially to the same design, plans and specifications as originally built.

- (a) **Repair and Reconstruction of Common Areas.** If the damaged Improvement is a Common Improvement, such repair or reconstruction shall not be required if the damage or destruction exceeds available insurance proceeds, and the Association within ninety (90) calendar days of the date of the damage destruction, by affirmative vote of the Owners holding at least seventy-five percent (75%) of the total number of votes of members entitled to be cast, determine not to rebuild or repair. In all other cases, the Board of Directors or its duly authorized agent shall arrange for and supervise the prompt repair and restoration of any Common Area.
- (b) **Repair and Reconstruction of Homes.** The Owner of any damaged or destroyed Home shall arrange for and supervise the prompt repair and restoration of Owner's Home. If, the damage or destruction of such Home exceeds available insurance proceeds, such Owner shall provide the additional funds necessary to complete the repair or reconstruction. If the Owner of any damaged or destroyed Home fails to complete the repair or reconstruction of his or her Home within two years of the date such damage or destruction occurred, the Association shall have the right, but shall not be obligated to, purchase the Lot from the Owner at eight-five percent (85%) of such Lot's fair market value, as determined by appraisal.

The procedure for selecting the appraisers shall be the procedure described in Section 2.22 of this Declaration, except that the Association shall be substituted for Declarant as a party to the selection process. Each Owner, by acceptance of a deed, covenants to convey such Lot to the Association pursuant to the terms and conditions of this paragraph by warranty deed, free and clear of all liens and encumbrances except any in existence prior to such Owner's ownership. If the failure of an Owner to complete the repair or reconstruction of Owner's Home within such two (2) year period is due to circumstances beyond the control of such Owner (other than such Owner's inability to fund any deficiency in insurance proceeds received), such Owner may obtain an extension not exceeding one year. Any request for such extension shall be in writing to the Association and shall state the circumstances that caused the delay and the estimated time necessary to complete the repair or reconstruction of the Home. The rights of the Association under this Section 3.10 shall be subordinate to and shall not impair, hinder or otherwise affect the rights of any Mortgagee.

**3.11 Owner's Lack of Authority to Bind Association.**

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

**3.12 Service of Process.**

Service of process upon the Association for all matters shall be made upon the President of the Association or upon the person duly designated by the Association from time to time as its registered agent in accordance with Chapter 181 of the Wisconsin Statutes.

**3.13 Enforcement of Declaration: No Reversion of Title.**

- (a) The Association (through the Board), both in its own right and as the agent for each of the Owners, shall have the exclusive right to enforce, by proceedings at law or in equity, all the terms, conditions, and provisions of this Declaration and any Rules or Regulations adopted by the Association, except that any Owner may proceed, at such Owner's expense and subject to the limitations of Section 3.11 of this Declaration, to enforce any such terms, conditions or provisions (other than for collection of Assessments against other Owners) if the Association fails to take such action within sixty (60) calendar days following a written request by such Owner for the Association to do so. Each Owner, by acceptance of a deed or other conveyance for his or her Lot, irrevocably appoints and designates the Association or his or her agent for the purpose of enforcing the terms, conditions and provisions of this Declaration. Any Owner violating any of the terms, conditions or provisions of this Declaration or any Rules or Regulations, Architectural Guidelines or maintenance standards, shall pay all costs, expenses and actual attorneys fees incurred by the Association in the successful enforcement thereof, which costs, expenses and fees may be charged against the Owner as a Special Assessment. Neither the Association nor the Board shall be

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

- (b) Each remedy set forth in this Declaration and/or in Rules or Regulations shall be in addition to all other rights and remedies available at law or in equity. All such remedies shall be cumulative and the election of one shall not constitute a waiver of any other. Any forbearance or failure of the Association or the Board to exercise any such right or remedy for any violation shall not be a waiver of such right or remedy under any circumstances (except as provided in Section 2.02(c)) unless a written waiver is obtained from the Board.
- (c) Except as provided under Sections 2.22 and 3.10 of this Declaration, under no circumstances shall any violation of this Declaration or of any Rule or Regulation result in any reverter or reversion of title to any property within the Subdivision.

#### **3.14 No Waiver in Case of Failure of Association to Insist on Strict Performance:**

The failure of the Association or the Board of Directors to insist, in any one or more instances, upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, shall not be construed as, or result in, a waiver or a relinquishment of such term, covenant, condition or restriction, but such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Association of payment of any Assessment from an Owner, with knowledge of breach of any covenant hereof, shall not be deemed as a waiver of such breach, and no waiver by the Association or the Board of Directors of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Association or the Board of Directors.

### **ARTICLE IV DECLARANT EXPANSION RIGHT**

#### **4.01 Expansion Right.**

Declarant expressly reserves the option and right, for itself and any successor or assignee of Declarant, but not the obligation, to expand the Subdivision; and, subject to this Declaration to submit to the Declaration and add to the Subdivision, all or any portion of the Additional Property, including any improvements thereon. Except as contained in this Section 4.01, there are no limitations upon this Expansion Right.

- (a) This option to expand shall expire thirty (30) years from the date of recording this Declaration, including the year of recording.
- (b) The Additional Property may be developed in any number of phases. The Additional Property may be added as a whole at one time or in one or more portions at different times, or it may never be added, and there are no limitations upon the order of addition or boundaries thereof. The parcels submitted to this Declaration need not be contiguous.

- (c) The maximum number of Lots (not including outlots or Common Areas) that may be created in the Subdivision is limited only by municipal legislation. The location, design and platting on the Additional Property shall be at the sole discretion of Declarant.
- (d) The Additional Property, when and if added shall be subject to all of the terms, conditions and provisions of this Declaration and Amendments.
- (e) If the option to expand is exercised, Lots added by an Expansion Right shall become liable for Common Expenses as provided in Section 3.04 of this Declaration. Each Lot added pursuant to an Expansion Right shall be allocated one (1) vote in the Association.
- (f) The option to expand reserved under this Section 4.01 shall be exercisable unilaterally by the Declarant, and the consent of Owners or the Association shall not be required.

**ARTICLE V  
RESERVATION OF DECLARANT EASEMENT RIGHT**

**5.01 Reservation by Declarant of Right to Grant Easements.**

The Declarant hereby reserves the right to grant and convey easements to the City and/or to any public or private utility company upon, over, through or across those portions of the Subdivision for purposes of allowing, the City or, any regulated utility company to furnish to any Lot or Common Improvement: gas, electric, water, sewer, cable or other utility service; for purposes of facilitating drainage of storm or surface water within or through the Subdivision, for purposes of extending or expanding the water supply system serving the Subdivision; for the planting and maintenance of trees along Dedicated Elements by the City. Such easements may be granted by the Declarant, in its own name and without the consent or approval of any Owner or Association, until such time as the Declarant has conveyed legal title to all platted or to be platted Lots to persons other than Declarant. An easement granted under this Section 5.01 shall be no more than thirty (30) feet in width and may abut one or more boundary lines of a Lot.

**ARTICLE VI  
SPECIAL FEATURES**

**6.01 Street Signs.**

The streets in the Subdivision will have street name signs and traffic control signs, which the City shall own, control and maintain

**6.02 Entryways.**

The Association may erect entry monuments or signs, including related landscaping and lighting at the entrances to the Subdivision on State Highway 32. Such entryway monuments, signs,

landscaping and/or lights shall be considered Common Improvements and maintained by the Association. Such signs may be repaired or replaced, but the design and content thereof may not be changed without the majority consent of the Board. The Declarant hereby reserves the right to grant and convey to the Association an easement, upon, over, through or across any Lot in the Subdivision for the purpose of erecting entry monuments or signs, including related landscaping and lighting related to the Subdivision. Such easements may be granted by the Declarant, in its own name and without the consent or approval of any Owner or Association, until such time as the Declarant has conveyed legal title to all platted or to be platted Lots to persons other than the Declarant.

#### **6.03 Cul de Sacs.**

The City of Sheboygan Falls has, or may, grant an easement to the Association to install and maintain traffic islands and plantings in the Subdivision. Such islands are Common Areas and Common Improvements if such easements are granted and shall be maintained by the Association.

### **ARTICLE VII SPECIAL PROVISIONS RELATED TO GOLF COURSE**

#### **7.01 Entry Onto Golf Course.**

Owners and Occupants of the Subdivision may not enter on the Golf Course except in compliance with the Golf Course Rules. Owners and Occupants are cautioned that it may be dangerous to do so. While the Golf Course has been designed to minimize the errant flight of golf balls from the Golf Course to the Lots, Owners of Lots acknowledge the possibility of such an occurrence. No easement is reserved for golfers to enter Lots to retrieve golf balls. The Golf Course Owner has no duty to enforce the provisions of this Section 7.01 and shall have no liability for repairs necessitated by or damages caused by any errant golf balls or entry onto Lots or the Common Areas by golfers. Owner and/or Occupants acknowledge that there are risks inherent in purchasing a Lot in close proximity to a golf course and Owner and/or Occupant hereby assume all risks and liabilities related thereto and Owner and/or Occupant release Declarant and the Association from any damages incurred by Owner and/or Occupant in any way resulting therefrom.

#### **7.02 No Rights in Golf Course.**

No Owner by reason of ownership of a Lot shall have a property right or any other right or interest in or related to the existence of the Golf Course or any other golf course or golf related facilities or the maintenance or operation of the Golf Course or any other golf course or golf facilities.

#### **7.03 Golf Course Maintenance.**

Golf Course maintenance may occur at any time and in any manner. Owner and Occupant acknowledge that the Golf Course Owner may use certain pesticides or herbicides in the ordinary course of maintenance.

#### **7.04 Golf Carts.**

The use of the paths on the Golf Course is regulated by the Golf Course Rules. No carts shall be operated on the Golf Course without the express prior written consent of the Golf Course Owner, which may be refused for any reason.

### **ARTICLE VIII MISCELLANEOUS**

#### **8.01 Notices.**

All notices, demands, statements, requests or documents required or permitted to be given pursuant to this Declaration shall be in writing. All such notices, demands, statements, requests and documents shall be deemed to have been properly given if delivered or served by personal delivery or by depositing the same in the United State mail, postage prepaid and addressed as follows:

- (a) **If to the Declarant:** Pinehurst Farms Golf Development, L.P. c/o Mr. David Bachmann, Jr., 1 Long Drive, Sheboygan Falls, WI 53085 or such other address as the Declarant may designate by written notice to the Association and the Owners in accordance with this Section 8.01.
- (b) **If to the Association:** The Pinehurst Meadows Homeowners Association, Inc. c/o Mr. David Bachmann, Jr., 1 Long Drive, Sheboygan Falls, WI 53085 or such other address as the Association may designate by written notice delivered to the Declarant and the Owners in accordance with this Section 8.01.
- (c) **If to an Owner:** addressed to the Owner at the address of Owner's Home in the Subdivision, or to such other address as the Owner may designate by written notice delivered to he Association in accordance with this Section 8.01.

If an Owner is comprised of more than one person, personal delivery or mailing to one such person shall be sufficient mailing or delivery to the Owner. The giving of all notices, demands, requests, statements or documents hereunder shall be effective upon personal delivery or two (2) calendar days after deposit in the United States mail. Rejection or other refusal to accept, or the inability to delivery because of changed address of which no notice was given in accordance with this Section 8.01, shall be deemed to be receipt of the notice sent.

#### **8.02 Severability.**

If any provision, or any part thereof, of this Declaration or the application thereof to any person or circumstances shall, to any extent, be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Declaration, or the application of such provision, or any part thereof, to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision or any part thereof, of this Declaration shall be valid, and be enforced to the fullest extent.

### **8.03 Covenants Run with Land; Legend to Appear on Conveyances.**

All terms, conditions and provisions of this Declaration and of any amendment thereof are and shall be covenants running with the land and no conveyance, transfer or encumbrance of the Subdivision (other than Dedicated Elements), or any Lot, or of any portion of or interest in the foregoing shall defeat or adversely affect the enforceability or validity of any such terms, conditions or provisions during the term of this Declaration. No conveyance or transfer of any Lot or any interest therein (other than Dedicated Elements) shall be effective unless the following legend appears on the face of the instrument of conveyance or transfer or on an exhibit attached to, incorporated by reference in and recorded with such instrument of conveyance or transfer:

*"The property described in this instrument is subject to the provisions of a Declaration of Covenants, Conditions and Restrictions for Pinehurst Meadows, dated as of January 10, 2003, and recorded with the Register of Deeds for Sheboygan County, Wisconsin (The "Declaration"). By acceptance of a deed or other conveyance of any Lot, as defined and described in the Declaration, or of any interest therein, each grantee, transferee and Owner agrees to be bound by all of the provisions of the Declaration and any amendments thereto, including, but not limited to, those provisions: (i) requiring payment of certain assessments to Pinehurst Meadows Homeowners Association, Inc. (the "Association") by the Owner(s); (ii) creating or imposing liens for the benefit of the Association on the Lots or other property described in the Declaration; (iii) authorizing the Association to file or record statements of lien from time to time with respect to the Lots or other property described in the Declaration; and (iv) requiring that this legend be included in any future deed or other conveyance of Lots as described in the Declaration."*

### **8.04 Amendments to Declaration.**

This Declaration may be amended only by the Declarant, during the Period of Declarant Control. After the Period of Declarant Control, this Declaration may be amended by the written consent of Owners representing at least seventy-five percent (75%) or more of the total votes of the Association then entitled to vote. An Owner's written consent is not effective unless approved in writing by its Mortgagee, if any. Amendments shall be prepared and executed by the president of the Association and shall become effective when recorded in the Office of the Register of Deeds for Sheboygan County, Wisconsin.

No action to challenge the validity of an amendment shall be commenced more than one (1) year after the amendment is recorded. No amendment shall adversely effect any special right or easement reserved to Declarant, or rights of Mortgagees or the rights of the City of Sheboygan Falls without the express written consent of Declarant, Mortgagees or the City of Sheboygan Falls, whatever the case may be.

**8.05 Term of Declaration.**

This Declaration (and any amendments) shall be binding for a period of thirty (30) years from the date the Declaration is recorded upon all Owners and any other persons claiming under or through the Declarant. Upon the expiration date of such initial thirty (30) year period, this Declaration shall be automatically renewed for a successive period of ten (10) years and thereafter for successive periods of ten (10) years upon the expiration date of the prior renewal period, unless there is recorded an instrument, executed by at least 75% of the Owners and their Mortgagees, terminating this Declaration, in which event this Declaration shall terminate upon the recording of such instrument of termination or expiration of the initial thirty (30) year term, whichever occurs later.

**8.06 Interpretation.**

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

**8.07 Number and Gender.**

Whenever used in this Declaration, unless the context shall otherwise require, the singular number shall include the plural, the plural shall include the singular, and the use of any gender shall include all genders.

**8.08 Captions.**

The section numbers and captions appearing in this Declaration are inserted only as matters of convenience and for reference, and in no way define, limit, construe or describe the scope or intent of the various provisions hereof.

**8.09 Applicable Law.**

This Declaration shall be governed by and interpreted in accordance with the laws of the State of Wisconsin.

**[SIGNATURES TO APPEAR ON FOLLOWING PAGE]**