

# DECLARATION OF RESTRICTIONS

**KNOW ALL MEN BY THESE PRESENTS**, THAT BLACKHAWK VALLEY DEV. CO. LLC., a Wisconsin limited liability company, being the owner of certain lands in the Village of Grafton, Ozaukee County, Wisconsin to-wit: BLACKHAWK VALLEY PHASE 2, recorded in the office of the Ozaukee County Register of Deeds on \_\_\_\_\_ as Document No. \_\_\_\_\_ being a subdivision located in that part of the NW ¼ of the NW ¼ and the SW ¼ of the NW ¼ of Section 30, Town 10 North Range 21 East, Village of Grafton, Ozaukee County, Wisconsin.

**NOW THEREFORE**, the Developer hereby declares that all the real estate described above shall be used, held, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, which shall inure to the benefit of and pass with said property and each and every parcel thereof, and shall apply to and bind the successors in interest, and any owner thereof.

- 1. DEFINITION OF TERMS.** (1) "Family" shall mean one or more than one person living, sleeping, cooking or eating on premises as a single housekeeping unit, and shall exclude a group or groups of persons where three or more persons thereof are not household employees or related by blood, adoptions or marriage. (2) "Parcel" shall mean each individual parcel as described on the Plat of BLACKHAWK VALLEY PHASE 2 recorded in the office of the Register of Deeds of Ozaukee County. (3) "Structure" shall mean and include, but not to be limited to, buildings, walls, fences, swimming pools, tennis courts, playground equipment, metal storage sheds, rubbish burners and any other similar items, the construction of which may not necessarily require a building permit. (4) "Attached" shall mean incorporated into the primary dwelling structure with at least one common wall. (5) "Cars" shall mean standard size automobiles.
- 2. GENERAL PURPOSE.** The general purpose of this Declaration is to help assure that BLACKHAWK VALLEY PHASE 2 will become and remain an attractive residential area and in furtherance of such a purpose: to preserve and maintain high aesthetic standards for all improvements, to help assure the best use and most appropriate development and improvement of each Lot to protect owners of Lots against use of surrounding Lots which may detract from the residential value or enjoyment of their property; to guard against the erection or maintenance of garish or poorly designed or proportioned structures; to obtain a harmonious and aesthetically pleasing blend of materials, structures and color schemes; to insure a residential development of BLACKHAWK VALLEY PHASE 2 consistent with high aesthetic standards and the purpose for which each such Lot is platted; to encourage and secure the erection of attractive residential structures with appropriate location on the Lots, to prevent installation of improvements which may adversely affect the aesthetic appearance of a

Lot or surrounding area; to ensure a proper and consistent set-back of structures and buildings for aesthetic appearance; to secure and maintain a proper spatial relationship

of buildings, structures, and other improvements; and to otherwise secure mutual enjoyment of benefits for owners and occupants of residential property within BLACKHAWK VALLEY PHASE 2.

### 3. **LAND USE AND BUILDING TYPE:**

A. No part or parcel of the premises shall be used for any purpose except for single family residential purposes. No structure shall hereafter be erected, moved or placed on any part or parcel other than a residential dwelling not to exceed two (2 1/2) stories in height on the front elevation, with an attached private garage for at least two (2) cars, and for not more than four (4) cars, (a four car garage may be no wider than a three (3) car garage with one parking bay two (2) cars deep or two (2) car wide and two (2) car deep) and other outbuildings incidental to the residential use of the premises. Approval of a four car garage will be granted by BLACKHAWK VALLEY PHASE 2 ARCHITECTURAL CONTROL COMMITTEE on a case by case basis.

B. No existing dwelling or other structure heretofore erected and situated upon land outside of the development may be moved onto any parcel of land within this Development without the written permission of the Architectural Control Committee as hereinafter designated.

4. **PLANS AND SPECIFICATIONS.** No buildings, main or accessory, fence or wall shall be erected, placed or altered on any parcel until the construction plans and specifications, and a plan showing the location of the proposed structure, (collectively, the "Building Plans") shall have been approved by the Architectural Control Committee as to employment and quality of materials, harmony of exterior design with existing structures, as to the effect on the general aesthetics of the area, and as to location with respect to topography, grading, drainage, and finish grading elevations. All plans and specifications shall be drawn by a licensed, professional engineer, architect or other professional or shall be in proper form so as to enable the Architectural Control Committee to ensure compliance with the terms of this Declaration of Restrictions. The Architectural Control Committee shall be provided with an adequate grading plan and erosion control plan showing slopes, existing drainage and proposed drainage patterns. Approval shall be as provided in section 25 hereof. The Architectural Control Committee may require a drainage design and pattern that will not necessarily follow property boundaries but will be designed to facilitate the overall drainage of BLACKHAWK VALLEY PHASE 2.

5. **BUILDING SIZE AND TYPE.** Dwellings erected in said development shall be single family residences and contain no less than the following schedule of area at first floor level, at perimeter of base, exclusive of porches, garages, bays, patios, breezeways, etc., that is to

say: A.) Not less than one thousand, eight hundred (1,800) square feet in the case of a one story dwelling, ; B.) Not less than one thousand, two hundred (1200) square feet in the case of a two story dwelling, or one and one-half story dwelling on the first floor level, and a total minimum of two thousand Two hundred (2,200) square feet in the residence; and C.) split-level homes allowed only upon individual review and approval by the Architectural Control Committee. Garage door(s), soffit, fascia, and cladding on windows may be man made materials subject to BLACKHAWK VALLEY PHASE 2 Architectural Control Board approval. All other exterior siding or facing must consist of brick, stone, or beveled cedar siding, cedar shingles for siding is not allowed except in gable and with BLACKHAWK VALLEY PHASE 2 architectural board approval. Horizontally applied fiber cement siding and trim with wood grain look, and Miratec textured treated exterior composite or "Real Trim" for trim is also allowed . D.) Various houses constructed within the subdivision shall not be limited to a single architectural style. Building plans for each home shall be subject to review by the Architectural Control Committee to confirm, in addition to any other items referred to in these restrictions, that each portion of the home will exhibit uniform architectural style and material at all elevations. The Architectural Control Committee shall further review the plans for each home in the subdivision for uniformity and authenticity of architectural style. The Architectural Control Committee shall have the authority to require modifications to plans for homes to be constructed in the subdivision to ensure compliance with the terms of this article as well as any other requirements of these restrictions.

6. **MAINTENANCE OF ROADWAY AND ADJOINING PROPERTY.** It shall be the responsibility of each lot owner to repair any damage to and remove any debris from the roadway of said development caused by the owner's general contractor or subcontractors. Each lot buyer must use only their lot for construction purposes; any damage to adjoining lots by construction trucks or equipment will be charged to lot buyer. Please advise your builder and their trades to not trespass on adjoining property.
7. **NUISANCE.** No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No noxious odors shall be permitted to escape from any home, lot or building site and no activity which is, or may become a nuisance or which creates unusually loud sounds or noises shall be permitted on any home, lot or building site. Trash, garbage or other wastes shall not be kept except in a sanitary container which shall be properly screened from public view
8. **BUILDING COMPLETION AND GRADING, LANDSCAPING: TEMPORARY STRUCTURES.**
  - A. No structure shall remain uncompleted for more than one year from the date of commencement of the building. Within three months of the date of completion or occupancy, whichever is earlier, the exterior of the building shall be sealed, stained, or

painted.

- B. Rough grading of the surface of any parcel of land in said subdivision, upon which any building shall be constructed, shall be completed before said building may be occupied, except that in the case of construction commenced after September 1st, rough grading must be completed within forty (40) days after ground has thawed or prior to occupancy, whichever is later, unless extended in writing by developer.
- C. Within one year from date of completion or occupancy, whichever occurs first, of any building on a lot within the subdivision, the surface of such lot shall be finally graded to meet master grade requirements, and the lawn area of such lot (which shall include the area between the sidewalk and street curb) shall be seeded or sodded by the lot owner all in accordance with the approved Landscape Plan, at his expense. Maintenance and water of trees between curb and sidewalk to be owner's obligation. Tree removal and replanting, and or moving light pole, if necessary, for driveway installation, will be at lot owner's expense.
- D. A Landscape Plan prepared by a qualified person or firm showing the proposed development of the entire Lot shall be submitted to the Architectural Control Committee for written approval at the same time as the Building Plan. Written approval by the Architectural Control Committee must be obtained before commencement of landscape improvements. Arrangements shall be made for adequate surface drainage so the runoff water does not cause a problem for adjoining Lots and provide for grass seeding or sodding in accordance with the approved Landscape Plan. Notwithstanding anything herein to the contrary, the Committee may grant variances, in writing, to professional builders who are building for sale and not under contract.
- E. Outbuildings, whether of a temporary or permanent nature, shall be approved by the Architectural Control Committee and shall be consistent with the design and materials of the principal structure. Statues and flag poles are specifically prohibited from being placed in this subdivision. No structure of a temporary character (including by way of description and not by way of limitation, trailer, basement, tent, shack, storage shed, garage, barn or other outbuilding) shall be placed on or used on any parcel within said subdivision at any time without the plans, specifications and location therefor having been first submitted to and approved in writing by the Architectural Control Committee. In the event that the Architectural Control committee does not approve or disapprove the plans and specifications referred to in this paragraph in writing within thirty (30) days following receipt thereof, the said plans and specifications shall be deemed to have been disapproved by the Architectural Control Committee.

## 9. **OUTSIDE STORAGE**

- A. Boats, snowmobiles, motorcycles, all-terrain vehicles, recreational vehicles, trailers or other items of personally must not be stored outside on the premises.
- B. The outside storage or parking of commercial vehicles is expressly prohibited and any such vehicle must be housed in a garage.

10. **RECREATIONAL VEHICLES.** The operation within the subdivision, of all-terrain vehicles, snowmobiles, dirt bikes or other motorized recreational vehicles is expressly prohibited, except that such vehicles may be operated for the purpose of moving them onto trailers for purposes of transport.

11. **EASEMENTS.** No permanent building or structure shall occupy any of the area dedicated upon the plat for utility easements . Plantings within the utility easement are subject to removal upon determination of utility holding easement rights. All drainage easements may not be filled or elevation changed.

12. **ANTENNA , SATELLITE DISHES AND SOLAR COLLECTORS.** No external television antenna or similar aerial collectors shall be erected or installed in the subdivision without the prior approval of the BLACKHAWK VALLEY PHASE 2 Architectural Control Committee. No satellite dishes larger than eighteen (18) inches in diameter will be allowed. No more than one such satellite dish per residential lot and location of satellite dish to be approved by the BLACKHAWK VALLEY PHASE 2 Architectural Control Committee.

13. **DRIVEWAYS.** The Owner shall install and pay for, a concrete driveway approach with a minimum thickness of six (6) inches and a width of at least sixteen (16) feet at the sidewalk and a flare of three (3) feet at the curb within one (1) year of start of construction. The Owner shall install a hard surface driveway within one (1) year of the date of occupancy.

14. **MAINTENANCE.** Each owner of a parcel shall maintain at his own expense buildings, improvements and landscaping in good repair and a clean condition, including without limitation, the mowing of lawns, trimming of plants, re-painting and repair of structures, repairing of drive and walk surfaces and such other measures so as to maintain a clean and orderly environment among the parcels subject to this declaration, and in accordance with the declared general purposes of the Declarations. There shall be no brush piles, trash or unnatural accumulations of debris stored, accumulated or located on the parcels herein before described. In the event a Lot owner fails to mow and maintain his property, the Architectural Control Committee may cause such maintenance to be performed and

charges therefore shall be a lien against the property in favor of the Architectural Control Committee or its assigns.

15. **ACTIVITY SALES.** No more than one (1) garage, rummage or similar sale shall be conducted on any lot in any one (1) twelve (12) month period and the duration thereof shall not exceed three (3) days.
16. **FIREWOOD**
  - A. Firewood may be stacked along the rear of the home or garage. Homes on corner lots shall shield the view of this wood from the street by way of landscaping or fence.
  - B. Firewood may not be stacked at a distance exceeding four feet from the home or garage.
  - C. The quantity of wood stacked or otherwise stored on the exterior of the premises may not exceed two (2) face cords. (A face cord is four (4) feet high, eight (8) feet long and two (2) feet wide).
17. **SIGNS.** No sign of any kind shall be displayed to the public view on any lot except two professional signs of not more than a total area of two (2) square feet each, or one sign of not more than a total area of six (6) square feet advertising the property for sale or rent, or a sign used to advertise the property during the constructions and sales period. All signs shall be located at least ten (10) feet from any side or rear lot lines.
18. **ANIMALS.** No animals, livestock, pigeons or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, or allowed to annoy any neighbors. Such household pets shall be contained on the premises of the owner thereof.
19. **SWIMMING POOLS.** Above ground swimming pools, other than portable wading pools of a depth not to exceed eighteen inches, shall not be allowed in the Subdivision.
20. **UNDERGROUND WIRING.** Any telephone, electrical or other utility wiring installed in, on or about subject premises, shall be installed underground only.
21. **NATURAL, PRAIRIE AND WILD YARDS.** In the event a Lot owner fails to mow and maintain his property, the Architectural Control Committee may cause such maintenance to be performed and charges therefore shall be a lien against the property in favor of the Architectural Control Committee or its assigns .
22. **ROOFING MATERIALS.** All roofs installed on a principle structure or garage shall consist of wood, tile or three dimensional asphalt or fiberglass shingles. Dimensional shingles

must be approved by the Architectural Control Committee.

23. **LOT MAINTENANCE PRIOR TO CONSTRUCTION.** Lot owners shall be responsible to maintain their property in a reasonable neat appearance prior to the commencement of construction. If the Architectural Control Committee determines, in its sole discretion, that such maintenance is not being performed the Committee may cause such maintenance to be performed and the Lot owner shall be liable for the cost of such maintenance.
24. **FENCES AND OUTBUILDINGS.** Fences and outbuildings shall require prior approval of the Architectural Control Committee. The design, location, construction materials and size and height of fences and outbuildings shall be considered and the Architectural Control Committee may grant or withhold their approval of the same in their sole discretion.

## 25. **ARCHITECTURAL CONTROL COMMITTEE**

- A. **MEMBERSHIP.** So long as BLACKHAWK VALLEY DEV. CO., LLC. shall own any of the following lots in the area commonly known as BLACKHAWK VALLEY PHASE 2, the authority and functions of the Architectural control committee shall be lodged in and exercised by BLACKHAWK VALLEY DEV. CO., LLC. At such time as BLACKHAWK VALLEY DEV. CO., LLC. no longer owns any of said land, the Architectural Control Committee shall consist of three (3) lot owners elected by the membership with the owner (s) of each lot getting one vote per lot. Members of the committee shall serve for three (3) years or until their successors have been duly elected. Due notice of the election of such successors shall be filed in the office of the Register of Deeds for Ozaukee County.
- B. **PROCEDURES AND JURISDICTION ON MATTERS COMING BEFORE THE ARCHITECTURAL CONTROL COMMITTEE.** The vote of the majority of the members of the Architectural Control Committee shall be the controlling vote and shall be construed to be the vote of the entire committee. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee or its designated representative fails to approve or disapprove within thirty (30) days after two (2) identical sets of plans and specifications have been submitted to it, approval will be deemed to have been obtained insofar as required by paragraph 5 hereof only; all other provisions of these restrictions to have full force and effect. Action by said committee shall be final and conclusive as to persons then or thereafter owning lands in said development. The Architectural control committee shall have exclusive jurisdiction to determine whether the area requirements of a one-story building or a two-story building apply to a particular proposed structure and shall likewise have the power, in its exclusive judgment and discretion to reduce the foregoing minimum requirements as to area, at finish grade elevation by not more than fifteen (15%) percent of the area hereinbefore specified. Any such action by such committee shall be final and conclusive.

## 26. **SPECIAL BUILDING LIMITS FOR LOTS 37 through 48**

- A. The boundaries of building sites, indicated on lots 37, 38, 39, and 40 on the plat of the subdivision define the outer limits that are permitted for construction of a house on each of said lots.
- B. No construction of any building should be allowed on lots 37 through 48 within the 75 foot shore land setback line or flood plain boundaries as set forth on the plat or as may be determined from time to time by appropriate regulatory officials. No structure may be built within 75 feet of the ordinary high water mark of the navigable stream. The final plot shows a 75 foot setback line along a unnamed navigable stream which lies behind these lots. At the time the field data was gathered the stream bed was dry. Because the stream bed was dry the center of the stream was used as the ordinary high water mark and the starting point of the 75 foot shore land setback line. Due to changing water levels and potential shifting of the stream bed the location of the ordinary high water mark may move. To provide a current 75 foot setback on this lot, it will be the responsibility of each lot buyer to have there surveyor mark on there house stakeout survey the 75 foot setback from the ordinary high water mark. Grafton's building inspector has requested that this 75 foot setback line be shown on the survey submitted to the Village of Grafton Architectural Board. Please inform your surveyor of this requirement.

## **27. FILLING RESTRICTIONS**

- A. All lots owners are required to cause the grading on their lot to comply with the master site grading plan which is on file with the Village of Grafton.
- B. There shall be no filling on lots 33, 34, 35 and lots 37 through 48 within flood plain and wetland areas on said lots without the property owner first obtaining the proper permits and/or approvals from the Village of Grafton and State of Wisconsin.

## **28. SPECIAL MOWING LIMITS FOR LOTS 37 THROUGH 48**

Because of the existence of a navigable stream, a unnamed tributary to the Milwaukee River, as shown on the plat of Blackhawk Valley Subdivision, the Wisconsin Department of Natural Resources has designated a vegetated water quality buffer area "Protected Buffer Area" that affect lots 37,38,39,40,41,42,43,44,45, 46, 47, and 48 The Protected Buffer Area on these lots has been established as follows:

Lots 45 and 46: 40 feet from the ordinary high water mark of the navigable stream.

Lot 44: 35 feet from the ordinary high water mark of the navigable stream.



Lots 37, 38, 39, 40, 41, 42 and 43: 30 feet from the ordinary high water mark of the navigable stream.

Lots 47 and 48: 50 feet from the ordinary high water mark of the navigable stream.

The Protected Buffer Area on these lots shall be seeded with a native seed mix. The Protected Buffer Area shall be maintained by the lot owner as undisturbed, unmowed vegetation in its natural state. Mowing of the Protected Buffer Area shall be prohibited, other than to control invasion by woody species and maintenance of herbaceous species through annual mowing.

## **29. DURATION AND ENFORCEMENT**

- A. The restrictions herein contained shall be deemed to be covenants running with the land and shall be binding on all parties and persons having an interest in the land affected hereby for a period of twenty-five (25) years from the date this Declaration of Restrictions shall be recorded, after which time this Declaration of Restrictions shall be automatically extended for successive periods of five (5) years unless an instrument signed by the owners of a majority of lots has been recorded changing said covenants in whole or in part or reducing the term. The restrictions and covenants herein contained may be enforced by proceedings at law or in equity against any person or persons violating or attempting to violate the same.
- B. The following persons shall have authority to maintain an action for enforcement of these restrictions and covenants:
1. BLACKHAWK VALLEY DEV. CO., LLC., so long as BLACKHAWK VALLEY DEV. CO., LLC. shall own any lots or parcels within the subject subdivision or immediately adjacent thereto;
  2. The Architectural Control Committee;
  3. Any owner of a lot or parcel in the subject subdivision affected by an alleged violation of these restrictions and covenants.
- C. No action shall be commenced to enforce such restrictions or restrain the violation thereof unless such action is commenced within one (1) year after the completion of the building complained of, one (1) year after the commencement of regulated or prohibited activity, or one (1) year after the allotted time limit to complete the improvement. Invalidity of any of the covenants or restrictions herein contained by any judgment or court order shall in no way affect any of the provisions herein contained which shall remain in full force and effect. Any



Notary public State of Wisconsin

This instrument was drafted by Attorney Paul M. Dimick, Levy & Levy S.C.