

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS

Declaration made this 9th day of September, 1998, by David S. FitzGerald ("Developer").

WITNESSETH:

WHEREAS, Developer is the owner of the real property in Eau Claire County, Wisconsin, described in Exhibit A attached to this Declaration and desires to create thereon a planned community with permanent Open Spaces; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values, amenities, environment, and opportunities in said community and for the maintenance of the property and improvements thereon, and to this end and in order to insure its best use and most appropriate ecological development, desires to subject said real property, to the covenants, together with such additions as may hereafter be made thereto, restrictions, easements, charges, and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each Owner thereof; and

WHEREAS, Developer has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an entity to which should be delegated and assigned the powers of maintaining and administering the community's open-spaces; and administering and enforcing the covenants and restrictions; collecting and disbursing the assessments and charges hereinafter created; and promoting the recreation, health, safety, and welfare of the residents; and has incorporated under the laws of the State of Wisconsin East Meadows Homeowner's Association, Inc., as a nonstock corporation for the purpose of exercising such functions;

NOW, THEREFORE, Developer declares that the real property described in Exhibit A, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, restrictions, easements, charges, and liens (sometimes referred to as "Covenants and Restrictions") set forth below.

ARTICLE I - DEFINITIONS

The following definitions shall be applicable, unless otherwise expressly provided, to this Declaration, any Supplementary Declaration and any Amendment hereto, recorded pursuant to the provisions of this Declaration.

Section 1. "Declaration" shall mean the covenants, conditions, and restrictions and all other provisions herein set forth in this entire document, and as same may from time to time be amended.

Section 2. "Association" shall mean and refer to East Meadows Homeowner's association, a Wisconsin nonstock corporation organized pursuant to Chapter 181 of the Wisconsin Statutes, its successors and assigns.

Section 3. "Developer" shall mean and refer to David S. Fitzgerald, and his successors, representatives, and assigns.

Section 4. "The Property" shall mean and refer to all real property which becomes subject to the Declaration, described in Exhibit A hereto.

Section 5. "Open Space" shall mean and refer to all of the Property except for the Buildings.

Section 6. "Building" shall mean and refer to any portion of a structure situated upon the Property and designed and intended for use and occupancy as a residence by a single family. Buildings shall include, but not be limited to, houses with attached decks, patios and garages.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, except that as to any Lot which is the subject of a land contract wherein the purchaser is in possession, the term "Owner" shall refer to such purchasers instead of the vendor.

Section 8. "Occupant" shall mean and refer to the occupant of a Building who shall be either the Owner or a lessee who holds a written lease having an initial term of at least twelve (12) months.

Section 9. "Book of Resolutions" shall mean and refer to the document containing rules and regulations and policies adopted by the Board of Directors of the Association, as same may be from time to time amended and recorded.

Section 10. "Mortgage" shall mean any mortgage or other security agreement by which a Building or any part thereof is encumbered.

Section 11. "Mortgage" shall mean any person or firm named as the Mortgage under any Mortgage by which the interest of any Owner is encumbered, or any successor to the interest of such person or firm under such Mortgage.

Section 12. "Lot" shall mean each divided portion of the property as shown upon the Plat of East Meadows which is recorded with the Register of Deeds for Eau Claire County, Wisconsin or which may be subsequently amended.

ARTICLE II - Property Subject to this Declaration

Section 1. Property. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in Eau Claire County, Wisconsin, and is more particularly described in Exhibit A ("Property").

Section 2. Description of Buildings.

(a) Single-family residences with attached patios, decks and garages may be constructed upon each Lot.

(b) The boundaries of each Building shall consist of the planes of the outer surfaces of each Building's exterior walls and the exterior boundaries of each Building.

(c) The attic, patio, deck, and garage areas, if any, for each Building shall be considered part of the Building and shall not be a considered Open Spaces.

(d) If any portion of the Open Spaces shall encroach upon any Building, as a result of the construction of the Building or as a result of settling or shifting of the Building, a valid easement for the encroachment and for its maintenance shall exist so long as the Building stands. In the event the Building shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent. domain proceedings and then rebuilt, any resulting encroachment on a part of the Open Spaces upon any Building or on a part of any Building on the Open Spaces shall be permitted, and a valid easement for such encroachment and for its maintenance shall exist so long as the Building stands. The existing physical boundaries of a Building which is reconstructed in substantial accordance with the original plans thereof, shall be considered presumed to be its boundaries regardless of settling or lateral movement of the Building and regardless of minor variances between the Building's existing boundaries and the boundaries of the rebuilt Building.

Section 3. Description of Open Spaces. The Open Spaces shall include all of the Property except for the Buildings and shall include, but not be limited to, grass and lawns, driveways, and sidewalks. Open Spaces shall not include garages nor patios and decks, if any, to which each Building has direct access by a door from the Building.

Section 4. Ownership of Open Spaces. Subject to the easements and restrictions of this declaration, legal title and ownership of the Open Spaces shall vest solely in the Building Owner of each Lot of the Property on which the Open Spaces are located. Specifically, the Property is not subject to the Wisconsin Condominium Ownership Act the Open Spaces are not "common elements" as defined by the Act, and each Building Owner does not own any fee interest in the Open Spaces not located upon the Lot owned by the Owner.

ARTICLE III - Membership and Voting Rights

Section 1. Members. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation such as a land contract vendor whose purchaser is in possession.

Such membership is subject to assessment by the Association. Each such membership shall be appurtenant to the Lot upon which it is based and shall be transferred automatically by conveyance of that Lot.

Section 2. Voting Rights. There shall be one vote for each Lot.

Section 3. Voting in Person or by Proxy. All voting may be done in person or by written proxy filed with the Secretary of the Association prior to the appointed time of any meeting. Proxies shall be valid only for the particular meetings or for the period of time designated therein, not to exceed one hundred eighty (180) days, unless sooner revoked in writing.

ARTICLE IV - Open Spaces

Section 1. Obligation of the Association. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive maintenance and management of the Open Spaces and all improvements thereon and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair.

Section 2. Association Easement. Subject to the provisions of this Declaration, the Association shall have an easement for maintenance and management in and to all Open Spaces.

Section 3. Association Duties. The duties and purposes of the Association are to:

(a) Maintain and improve the Open Spaces by maintaining the lawns, shrubs and trees, by removing snow from all driveways and walkways, and by keeping the Open Spaces in safe and aesthetically pleasing conditions;

(b) Establish reasonable rules for use of the Open Spaces including, but not limited to, the location of gardens, the planting of trees, shrubs and vegetation, and the placement of playground equipment, satellite dishes or other structures or objects upon the Open Spaces.

(c) Conduct such other activities regarding use of the Open Spaces as the Association deems to be in the best interest of the majority of the Owners and Members.

Section 4. Damage or Destruction of Open Spaces. If any Open Spaces are damaged or destroyed by an Owner or by the Owner's guests, tenants, licensees, agents, or members of the owner's family, the Owner shall immediately repair the damage at the Owner's cost. If the damage is not repaired within thirty (30) days of the Owner receiving written notice to make the repairs from the Association, the Owner does hereby authorize the Association to repair said damaged area; and the Association shall repair said damaged area in good workmanlike manner in conformance with the original plan and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association in the discretion of the Association. The amount necessary for such repairs shall become a Special Assessment upon the Lot of said Owner.

ARTICLE V - Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation. The Developer hereby covenants, and each Owner of any Building by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following: (i) annual general assessments or charges, and (ii) special assessments.

All such assessments, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the Lot and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due.

Section 2. General Assessment.

(a) Purpose of Assessment. The general assessment levied by the Association shall be used exclusively for purposes set forth in Article IV, Section 3 above.

(b) Basis for Assessment. (i) Each Building shall be equally assessed (1/22 of the total assessment).

Section 3. Annual Assessment. By a vote of not less than two-thirds of the Directors of the Association ("Board"), the Board shall fix the annual general assessment to meet the obligations imposed by this Declaration. The Board shall set the date(s) such assessment shall become due.

Section 4. Special Assessment. In addition to the annual assessment authorized above, the Association may levy in any assessment year a special assessment applicable to that year and not more than the next two succeeding years for the purpose of defraying, in whole or in part, or to meet any deficiency over the annual assessment. The Directors may approve and levy a special assessment or assessments, totaling no more than One Thousand Dollars (\$1,000) per calendar year per Lot. Any greater assessment shall have the prior assent of not less than two-thirds of the votes of the Members who are voting in person or by proxy at a special meeting duly called for that purpose. Special assessments may also be levied for repairs made by the Association pursuant to Article IV, Section 6 above.

Section 5. Date of Commencement of Annual Assessments.

(a) The annual assessments provided for herein shall commence on the date of conveyance of a Lot to an Owner who is not the Developer.

Section 6. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date may, upon resolution of the Board, bear interest from the due date at a percentage rate to be set by the Board for each assessment period, which shall be no greater than the current statutory maximum annual interest rate. The Association may bring an action at law against the Owner or Member personally obligated to pay the same or foreclose the lien against the Lot in like manner as a mortgage on real property. In any such foreclosure, the Association shall be entitled to the appointment of a receiver to collect the same. The Association may bid on the property at foreclosure sale and acquire and hold, lease, mortgage, and convey the same. If the Association has provided for collection of annual assessments in installments, upon default in the payment of any one or more installments, the Association may accelerate payment and declare the entire balance of said assessment due and payable in full. No Owner or Member may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Open Spaces or abandonment of his or her Building. In the event of such foreclosure, the Owners and Members agree to be bound by the redemption periods of Wis. Stat. Ch. 846 and specifically agree to the provisions of Wis. Stats. Sec. 846.101 and 846.103 permitting the Association, upon waiving the right to a deficiency judgment, to hold the sheriff sale after the redemption periods specifically provided in said Statutes.

Section 7. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Building shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof

Section 8. Annual Budget. By a majority vote of the Members as made pursuant to Article III, Section 2 above, the Association shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Declaration will be met.

Section 9. Joint and Several Liability of Grantor and Grant. Upon a voluntary conveyance, the grantee of a Building shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor as provided in this Declaration up to the time of conveyance, without prejudice to the grantee's right to recover from grantor the amount paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Association setting forth the amount of such unpaid assessments and any such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessment against the grantor pursuant to this Article in excess of the amount therein set forth.

ARTICLE VI - Architectural Control

Section 1. The Architectural Review Committee. An Architectural Review Committee consisting of three or more persons shall be appointed by the Association Board of Directors from within its membership.

Section 2. Purpose. The Architectural Review Committee shall regulate the appearance, use, location, and maintenance of the Open Spaces and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography.

Section 3. Conditions. No improvements, alterations, repairs, changes in grade, or other work which in any way alters the Open Spaces, the exterior of any Building or the improvements located therein from its natural or improved state existing on the date such property was first conveyed in fee by the Developer to an Owner shall be made or done without the prior approval of the Architectural Review Committee, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence, playground equipment, pet kennel or pet house or run, or other structure shall be commenced, erected, maintained, improved, altered, made, or done without the prior written approval of the Architectural Review Committee.

Section 4. Procedures. In the event the Architectural Review Committee fails to approve, modify, or disapprove in writing an application within thirty (30) days after the plans and specifications in writing have been submitted to it, in accordance with adopted procedures, approval will be deemed granted. The applicant may appeal an adverse Architectural Review Committee decision to the Board of Directors who may reverse or modify such decision by a two thirds (2/3) vote of the Directors.

Section 5. Term. The Architectural Review Committee shall serve until the later of either: (1) sale by the Developer of all of the Lots of the Property to owners who are not the Developer; or (2) two (2) years from the date of recording of this Declaration with the Eau Claire County Register of Deeds ("Termination Date"). After the Termination Date, all rights and duties of the Architectural Review Committee shall be automatically assigned, without notice, to the Association.

ARTICLE VII - Use of Property

Section 1. Protective and Restrictive Covenants.

(a) Residential Use. All Property shall be used for residential purposes and shall be improved and devoted exclusively to residential use with not more than one family" (as such term is defined from time to time by the applicable Zoning Ordinances) occupying each Building. No Owner shall occupy or use the Owner's Building or Open Spaces appurtenant thereto or permit the same or any part thereof to be occupied or used, for any purpose other than as a private residence for the Owner, the Owner's family, or guests.

(b) Obstructions and Nuisances. There shall be no obstruction of the Open Spaces and nothing shall be stored thereon without the prior consent of the Architectural Review Committee or the Association, as appropriate. No nuisance shall be permitted to exist or operate upon any property so as to be detrimental to any other property in the vicinity thereof or to its occupants.

(c) Signs. No advertising signs of any kind including political yard signs shall be permitted upon any Lot, except one professional sign of not more than one square foot area. While the Building is under construction and when the Building is subsequently available for resale the Building Owner or Broker may put one for sale sign of not more than six square feet on the Lot,

(d) Pets. Until and unless determined otherwise by the Board, household pets shall be permitted in accordance with the following limitations: Each Building may keep one (1) dog or one (1) cat and other small pets (such as fish, canaries, or parakeets) provided that they are not kept, had, or maintained for any commercial purposes and provided that the pet primarily resides within the building. Notwithstanding any other language of this paragraph, no pets shall be permitted if the Occupants of the Building are not the Building Owners. Pets shall not be allowed unleashed outside of the Owner's Building. Outside kennels, pet houses and pet runs are prohibited.

(e) Vehicles and Parking.

(i) No trucks or heavy equipment other than pickup trucks may be parked on the Property, except during moving in or out of premises.

(ii) No travel trailer or motor homes may be parked on the Property for more than 21 days a year, unless parked inside a garage, and may not be occupied as living quarters on the Property.

(iii) No untitled automobiles may be parked or stored on the Property, unless parked or stored inside a garage.

(iv) Owners shall not park their automobiles or other motor vehicles on the adjacent roads or Open Spaces as a matter of course.

(v) No snowmobiles, all-terrain vehicles or other off-the-road vehicles may be operated in or about any of the Open Spaces subject to this Declaration.

(g) Alteration, Construction, or Removal Nothing shall be altered or constructed in or removed from the Open Spaces and facilities, except upon the prior written consent of the Architectural Review Committee or Association, as appropriate.

(h) Antennas/Satellite Receivers. No exterior television or radio antennas will be permitted. Satellite receivers must be as unobtrusive as possible and no more than 21 inches in diameter. They must be mounted on the roof

(i) Garbage. Garbage shall be kept in designated storage areas unless local ordinances require placing of garbage and refuse at a different location for pickup.

j) Landscaping and Gardening. No Owner shall plant trees, landscape, or do any gardening in the Open Spaces except with the prior written permission of the Architectural Review Committee or Association, as appropriate. Outdoor drying lines are prohibited.

(k) Other Restrictions. Upon conveyance of the first Building to an Owner, the Architectural Review Committee may adopt general rules to implement the purposes set forth in Article VI, and shall interpret the covenants in this section. Such general rules may be amended by an affirmative vote of two-thirds of the Members following a hearing of Association members of which due notice has been given in writing to such Members. All such general rules and any subsequent amendments thereto shall be placed in the Book of Resolutions and may be recorded in the public land records.

(l) Exceptions. The Architectural Review Committee or the Association, as appropriate, may issue temporary permits to except any prohibitions expressed or implied by this section, provided the Committee or Association can show good cause and acts in accordance with adopted guidelines and procedures.

Section 2. Maintenance of Buildings. To the extent that maintenance is not provided for in the Declaration, each Owner shall keep all Buildings owned by such Owner, and all improvements therein or thereon, in good order and repair and free of debris, all in a manner as is consistent with good property management.

ARTICLE VIII - Insurance

Section 1. Fire or Casualty Insurance.

(a) Each Lot Owner shall obtain insurance for the portion of the Open Spaces located upon the Lot against loss or damage by fire and such other hazards for not less than full replacement value of the Property and a liability policy covering all claims commonly insured against, Insurance coverage shall be written on the Property in the name of the Lot Owners and shall name the Association as co-insured. The premiums for the liability and the fire and other hazards policies shall be paid by each Lot Owner.

(b) Unless there occurs substantial damage to or destruction of all or a substantial part of the Open Spaces, and subject to the provisions provided, the Owners shall repair, replace, and rebuild the damage caused by casualty loss to the Open Spaces on their Lot, and shall pay the costs of the same in full. If repairs are not made within thirty (30) days of an Owner receiving written notice from the Association to make the repairs, the Owner

hereby authorizes the Association to repair said damaged area and the Association shall proceed pursuant to Article IV(4) above.

ARTICLE IX - General Provisions

Section I. Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless at the expiration of the twenty-year term or of any ten-year extension period the covenants and restrictions are expressly terminated by an instrument signed by two-thirds (2/3) of the Owners. A termination must be recorded with the Eau Claire County Register of Deeds.

Section 2. Amendment. This Declaration may be amended at any time by an instrument signed by an officer of the Association and upon affirmative vote of not less than two thirds (2/3) of the Owners. An Owner's consent is not effective unless it is approved by the mortgagee, of the Building, if any. Any amendment must be recorded.

Section 3. Enforcement. The Association, any Owner, or the Developer shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or thereafter imposed by the provisions of this Declaration and of Supplementary Declarations or any Amendments thereto, Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Non-Homestead of Developer. None of the lands described in Exhibit A constitutes the homestead of the Developer.

In Witness Whereof, this Declaration has been executed on the day, month, and year first above written.

David S. FirzGerald – Developer

STATE OF WISCONSIN

EAU CLAIRE COUNTY

Personally came before me this 8th day of September, 1998, the above-named David S. FitzGerald to me known to be the person who executed the foregoing instrument and acknowledged the same.

Annette M. Olson
Notary Public, State of Wisconsin
My commission is permanent/expires July 29, 2001

THIS INSTRUMENT DRAFTED BY:

Donald R. Marjala – Lawyer
State Bar #01017093
Weld, Riley, Prenn & Ricci, S. C
P.O Box 1030
Eau Claire, WI 54702-1030

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY SUBJECT TO DECLARATION

Lots 1 through 22 of East Meadows, city of Eau Claire, Eau Claire County, Wisconsin.