

**RIVER'S EDGE  
DECLARATION OF  
RESTRICTIONS  
AND  
COVENANTS**

DOC# 1150289



Recorded  
JAN. 23, 2007 AT 03:00PM  
SHARON A MARTIN, REGISTER OF DEEDS  
WASHINGTON COUNTY, WISCONSIN

Fee Amount: \$63.00

THIS DECLARATION, made this 12 day of January, 2007, by WB2 INVESTMENTS, LTD., hereinafter referred to as "DEVELOPER."

**WITNESSETH:**

WHEREAS, DEVELOPER owns all the land which has been platted as "River's Edge" a subdivision located in the City of West Bend, hereinafter referred to as "River's Edge", consisting of 85 residential single family lots and 8 duplex lots.

WHEREAS, DEVELOPER desires to subject River's Edge subdivision to the conditions, covenants, restrictions, reservations and easements hereinafter set forth, for the benefit of said Subdivision and for the benefit of each Lot Owner in said Subdivision:

NOW, THEREFORE, DEVELOPER HEREBY DECLARES that the real property hereafter described in Article II, Section 2.01 shall be used, held, transferred, sold and conveyed subject to the conditions set forth, which shall inure to the benefit of and pass with said property and each and every parcel thereof as covenants running with the land and shall apply to and bind all successors in interest, users and owners thereof.

*103-27*

Return To: Richard A. Rechlicz, Esq.  
Ladewig, Rechlicz & Iggens  
N88 W15125 Main Street  
Menomonee Falls, WI 53051

**ARTICLE I  
DEFINITIONS**

1.01

- (a) "Association" shall mean the River's Edge Home Owner's Association, an incorporated association, created under Article IV, Section 4.01 of this Declaration.
- (b) "Architectural Control Committee" (hereinafter referred to as "Committee") shall mean the Committee referred to in Article V and created under this Declaration, comprised of those persons elected in accordance with Section 5.01 serving as Members of said Committee.
- (c) "Common Area" shall mean those portions of River's Edge Subdivision which are designated on the plat as Common Areas, easements for the public utilities, storm water facilities and landscaping thereon. The Common Area will generally consist of and include green space, detention basins, entry monuments and related landscaping and other facilities and improvement, which serve River's Edge Subdivision.
- (d) "County" shall mean Washington County, Wisconsin or any political entity which may from time to time be empowered to perform the functions or exercise the powers vested in the County as of the recording of this Declaration.
- (e) "Developer" shall mean WB2 INVESTMENTS, LTD., as well as any Successor-Developer. Developer hereby expressly reserves the right to appoint, in writing, a third party to act as his agent to carry out Developer's duties and responsibilities.

(f) "Duplex Lot" shall mean and refer to Lots 86, 87, 88, 89, 90, 91, 92 and 93, which shall be improved with one or more two (2) family residential Dwellings (as approved by the City of West Bend).

(g) " Dwelling" shall mean a residential building which contains one family and is limited solely to residential purposes and which shall not include any attached garage.

(h) "Family" shall mean one or more persons related by blood, adoption or marriage living, cooking, sleeping and eating on premises as a single housekeeping group and shall exclude a group of persons where three or more persons are not so related or engaged as household employees.

(i) "Lot" shall mean a platted Lot within River's Edge (Lots 1 through 85, inclusive and the 8 duplex Lots) identifiable by reference to a name and lot number, and which has been expressly made subject to this Declaration, including any and all improvements constructed thereon.

(j) "Lot Owner" shall mean the fee simple Owner, whether one or more, of record title, legal or equitable, to the Lot, regardless of the type of tenancy or estate, but shall not include the holder of any leasehold interest or any mortgage or commercial lien prior to acquisition of legal or equitable title.

(k) "Municipality" shall mean the City of West Bend, Washington County, Wisconsin.

(l) "Single Family Lot(s)" shall refer to Lots 1 through 85, inclusive.

(m) "Section" shall mean all those provisions included within a number capitalized heading, including all subsections [e.g. 0.00 (a)0] and paragraphs [e.g. 0.00 (a)(1)].

(n) "Subdivision" shall mean that portion of River's Edge subdivision subject to this Declaration, including thereto all 85 single family lots and 8 duplex lots.

(o) "Structure" and "improvement" shall be synonymous and shall both mean and include any and all of the following, regardless of whether temporary or permanent in character or intended use: building, outbuilding, shed, booth, garage, carport or aboveground storage facility; tent; antennae, tower or pole (including any satellite, cellular or other device or mechanism for the sending or receipt of electronic signals); fence, retaining or other wall or enclosure; fountain; aboveground or inground swimming or wading pool; pet kennels or run line; screened or other type of porch, patio or gazebo; berms and swales; and any other similar or related type of improvement not located within the exterior walls of the single family dwelling constructed upon the lot.

(p) "Subject Property" shall mean the real estate described on Exhibit A.

(q) "Successor-Developer" shall mean any person, corporation, partnership or other entity to which Developer expressly assigns or otherwise transfers his rights and obligations hereunder, or any successor to Developer by operation of law. The Successor-Developer shall not be interpreted to mean any agent referenced under Section 1.01(d).

(r) "Transfer Date" shall mean the date on which the rights of Declarant to designate the Members of the Board and Architectural Control Committee are terminated under and pursuant to Sections 4.08(a) and 5.01, respectively.

## ARTICLE II

### 2.01 PROPERTY SUBJECT TO DECLARATION

The following property shall be the subject to this Declaration, including all lots and parcels thereof:

See Exhibit A attached hereto and incorporated herein by reference, hereinafter referred to as "Subject Property."

## ARTICLE III

### 3.01 GENERAL PURPOSE AND SCOPE

As to the Lots, the following shall apply:

(a) The general purpose of this Declaration is, among others, to help assure that the Subdivision will become and remain an attractive residential community. In furtherance of such purpose, this Declaration shall aspire to: preserve and maintain the natural beauty of certain areas within the Subdivision; maintain high aesthetic standards for all improvements, as well the natural beauty of certain open spaces; help assure the best use and most appropriate development and improvement of each building site; protect Owners of Lots against such use of surrounding Lots and buildings as will detract from the residential value of said property; guard against the erection or maintenance of poorly designed or proportioned structures; obtain harmonious use of materials and color schemes; insure the highest and best residential development of the Lots in the Subdivision consistent with the purpose for which same are platted; encourage and secure the erection of attractive residential structures with appropriate locations on said Lots; prevent haphazard and inharmonious improvements of building sites; secure and maintain a proper spatial relationship of buildings, structures and other improvements; and otherwise secure mutual enjoyment of benefits for Owners and occupants of residential Dwellings constructed on said Lots.

(b) This Declaration shall be constructed and interpreted in favor of restricting the use of each Lot consistent with the purposes hereof and any ambiguity shall be resolved against any Lot Owner constructing any structure or engaging in any activity not authorized under this Declaration or approved, in writing, by the Board of Directors or the Architectural Control Committee.

(c) It is inherent to protective covenants and restrictions that from time to time those covenants and restrictions are subject to interpretation. In those instances wherein an interpretation is required because there is no definitive rule to be followed, or because there is a question regarding an intangible concept such as, but not limited to, what constitutes harmonious architectural design, what is poor design or proportion and what is aesthetically pleasing, the matter shall be subject to the opinion of the Architectural Control Committee for the granting of a final approval.

(d) The City of West Bend and all public and private utilities (including cable companies) serving Subdivision are hereby granted the right to lay, construct, renew, operate, and maintain conduits, cables, pipes, wires, transformers, switching apparatus and other equipment, into and through the Subdivision for the purpose of providing

utility services to the Subdivision or any other portion of the Subject Property.

3.02

### **SUITABILITY**

(a) Developer makes no representation or warranty whatsoever, express or implied, regarding the physical condition of any Lot. Developer recommends that prospective buyers undertake whatever inspections and tests by qualified professionals deemed appropriate by said prospective Buyer.

(b) Developer suggests, but does not require, that Buyers utilize a properly licensed architect in any construction.

3.03

### **SINGLE FAMILY LOTS.**

(a) All Lots shall be used solely and exclusively for single family residential purposes and the Duplex Lots shall allow 2 Dwellings per Duplex Lot (excluding Lot 86 with the number of Dwellings to be as allowed by the City). Notwithstanding the foregoing, only 1 family shall occupy each Dwelling.

(b) No buildings shall be erected, altered, modified or permitted to remain on any Lots other than one single-Unit dwelling, not exceeding two and one-half stories in height, with an attached private enclosed garage meeting the requirements of Section 3.07 hereof.

(c) No other outbuildings shall be erected, placed or permitted to remain on any of Lots without the approval of the Committee and the City of West Bend. It is the intent of the Committee to permit only outbuildings associated with a free-standing gazebo, screened structure or swimming pool cabana, provided that the latter is required to store mechanical pool equipment. All permitted structures shall be constructed of materials that conform with the decor and are in harmony with the Dwellings in the development.

### **3.04 USE AND MAINTENANCE OF STORM DRAINAGE AND LANDSCAPE AREAS**

(a) All storm drainage and landscape areas shall be used for their intended purposes (e.g. open spaces, storm drainage, etc.) for the common benefit of River's Edge.

(b) Each Owner of a Lot shall be liable for the maintenance and repair of any drainage areas or landscape areas located within said Lot Owner's Lot, including any and all costs attributable thereto.

(c) No Owner of a Lot shall undertake any repairs to or construction within any drainage areas or landscape areas which would impair the function of same or impair the interrelated harmonious function of the drainage and landscape areas of the subdivision.

(d) Outlot 1 of the plat of River's Edge is owned and shall be maintained by the River's Edge Homeowner's Association for storm water retention purposes and open space. Each individual lot owner shall have an undividable fractional ownership of Outlot 1. In the event the Homeowner's Association should fail to properly maintain Outlot 1 the City of West Bend as set forth in Section I, D, 4, of the River's Edge Developer's Agreement may enter the property

and preform all necessary repairs. Any costs incurred by the City are subject to Section III, B, 1, & 2 of the River's Edge Developer's Agreement.

### 3.05 ARCHITECTURAL APPROVAL REQUIRED FOR IMPROVEMENTS

(a) No building, structure, wall, fence, swimming pool or other improvement shall be constructed, erected or placed on any Lot or altered, modified or changed (as to layout, location, exterior design, color or in any other way) until the plans, specifications, drawings and a written proposal therefore have been approved in writing by the Committee as to: material composition and quality; external design, harmony and color coordination with existing and planned structures and improvements; location with respect to topography, setbacks, finished grade elevations, driveways and plantings and compliance with other applicable restrictions contained in this Declaration.

(b) Upon approval by the Committee of all plans, designs, specifications and written proposals and upon receipt of all necessary municipal and governmental approvals and permits, a Lot Owner may commence construction in accordance therewith, provided that no substantial changes shall be made with respect thereto unless the prior, written approval from the Committee is obtained.

(c) Unless otherwise specifically provided herein to the contrary, construction of improvements shall be completed and an occupancy permit shall be issued within one year after the last approval or permit has been obtained necessary for commencement of construction. For its own benefit to ensure compliance, the Committee may, at its discretion, require performance bonds from any contractor responsible for construction of the improvements.

(d) Any suit for damages and/or injunctive relief based upon the failure of any Lot Owner to obtain approval from the Committee or City of West Bend, as appropriate and as required under this Declaration, shall be commenced by Committee or any other Lot Owner within one (1) year following completion of construction, installation, change or modification of any building, structure, wall, fence or other improvement, otherwise, the approval required therefore shall be conclusively presumed to have been given and the Committee or any Lot Owner, and their respective successors and assigns, shall forever be barred with respect thereto. In no event, however, shall the Committee or any Lot Owner be precluded from enforcing this Declaration as to any subsequent or other construction installation, change or modification for which written approval of the Committee is required.

### 3.06 MINIMUM DWELLING LIVING AREAS

For each and every Dwelling proposed to be constructed in River's Edge, the following minimum living areas shall apply:

- (i) All ranch style homes shall be a minimum of 1,300 square feet.
- (ii) All one and one-half story and two story homes shall be a minimum of 1,600 square feet with a minimum of 800 square feet on the first floor.

All Dwellings shall have full basements with the exception of split-level or bi-level dwellings. Any exposed basement or foundation walls must be constructed with materials similar to that used on the exterior walls.

Homes too similar in appearance will not be permitted to be constructed in close proximity to one another.

3.07

### **BUILDING SETBACK LINES**

(a) No buildings, garage or other structure (excluding eaves, steps, overhangs, patios or other appurtenances not built on a foundation or frost-footings) shall be located on any Lot so that the front, side and rear yard distances are less than minimums as required in the Building and Zoning Code for the City of West Bend and as further modified and required by the Architectural Control Committee (hereinafter referred to as "ACC"). The intention and purpose of the ACC to further impose said modifications is to harmonize and coordinate adjacent building placements. Each corner Lot shall be determined by the ACC to have one rear line, one side Lot line, one front Lot line and a side street based on the proposed orientation of the Dwelling and other improvements.

(b) Notwithstanding the set-back requirement specified above, the orientation and precise location of each Dwelling and garage, as well as all other improvements on a Lot, must be approved, in writing, by the Committee prior to any construction, it being intended that the Committee may, in its discretion, impose greater set-back requirements than those specified above in order to achieve or maintain the aesthetic appearance which Developer or Committee deems advisable for River's Edge or any portions thereof. Any exposed basement or foundation wall shall be covered with materials similar to the exterior walls of the Dwelling.

(c) Committee, in its sole and absolute discretion, may permit improvements (other than the Dwelling, garage and any other improvements expressly permitted herein) to be constructed, installed and located with the set-back areas described above; provided, such permission must be in writing to be effective and can only be granted after notice to all adjoining and adjacent Lot Owners advising said adjoining Lot Owner(s) of the proposed improvement and affording said adjoining Lot Owner(s) the opportunity to be heard with respect to the proposed improvement.

3.08

### **GARAGE AND DRIVEWAY**

(a) Each Lot shall have a private enclosed attached garage for the on-site storage of not less than two automobiles for the Dwelling built or to be built upon said Lot. The exterior portions of the garage shall harmonize with the residential Dwelling as to design, materials and finished floor elevations and shall be completed prior to occupancy of the Dwelling. The garage shall be located within the building setback lines as specified in this Declaration.

Gravel driveways are prohibited.

All driveway curb openings constructed at the time of curb construction that are not used for driveways must be closed by removing the curb and gutter and replacing with full face curb and gutter pursuant to the City of West Bend.

(b) The garage shall be constructed on the high side of the Lot unless otherwise approved by the ACC and shall be connected to the street by a properly surfaced asphalt or concrete driveway which shall not be closer than six (6) feet to the side property line of any Lot. Said driveway shall be installed in accordance with City of West Bend specifications and completed within one year from the date of the issuance of the occupancy permit.

3.09

### **ROOFING MATERIALS AND CONSTRUCTION**

(a) All roofs on any Dwelling and garage construction on a Lot shall be made of a 30 year warranted dimensional shingle or better and such dimensional shingles shall be a "weatherwood" color. The Committee reserves the right to approve any type of roofing so as to insure that such materials are in keeping with the architecture of the Dwelling as proposed and the purpose of this Declaration as set forth in Article III, Section 3.01 hereof.

(b) All roof designs, shingle grade and specifications for pitch for any Dwelling and Garage to be constructed on any Lot shall be subject to the approval of the Committee. The roofs shall be pitched to rise at least eight (8) inches vertically for each twelve (12) horizontal inches, except for homes of one and one-half stories which have roofs that may be pitched to rise four (4) inches vertically for each twelve (12) horizontal inches on certain rear portions of the Dwelling which will be determined by the ACC.

3.10

### **EXTERIOR BUILDING MATERIALS AND DWELLING QUALITY**

(a) It is expected that the design of each Dwelling shall be consistent and unified and that building materials appropriate for that design shall be used. All Dwellings should reflect those aesthetics and the spirit of the traditions they seek to exemplify.

(b) All Dwellings proposed to be erected, altered or modified shall, on the construction plans, denote materials acceptable to the ACC and the construction shall be carried out in accordance with the material(s) as approved by the ACC. All exterior walls of residences shall be constructed of brick, stone, wood (including wood wafer board products of a type and quality approved by the ACC), aluminum, vinyl, cedar, cement board siding, stucco, or combinations thereof.

(c) The design, layout and exterior appearances of each Dwelling proposed to be erected, altered or modified on any Lot shall be such that, in the opinion of the ACC at the time of approving of the building plans, the Dwelling will be of high quality and shall have no (substantial) adverse effect upon property values.

3.11

### **PRESERVATION OF TREES**

(a) No existing tree, with a diameter of six inches or more (at a height of four feet from the ground) beyond six feet from the approved Dwelling location on a Lot shall be moved, removed or destroyed in any way, other than upon prior, written approval of the ACC, and all existing trees shall be protected during periods of construction and grading as may be required by said ACC. This provision shall also pertain to the installation of tree wells and root and trunk preservation.

(b) Any trees or plantings installed by the Developer on private lots or outlots (excluding street trees which are within the City right-of-way) are the responsibility of the Lot Owners to maintain and replace.

3.12

### **GROUND FILL ON BUILDING SITE**



debris.

3.18 **TEMPORARY STRUCTURES, VEHICLES PROHIBITED**

No temporary structure or vehicle shall be used on any Lot for temporary or permanent housing, sleeping or other residential purposes, nor packed, kept or stored on said Lot outside the garage or building for any purpose.

3.19 **MAILBOXES**

Each Lot Owner will be required to install a uniform mailbox as selected by the Association.

3.20 **SIGNS**

No sign of any kind shall be placed or displayed to the public view on any Lot, except one sign of not more than six square feet advertising the Dwelling for sale.

3.21 **ANIMALS AND PETS**

No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other normal household pets may be kept so long as not kept, bred or maintained for any commercial purpose nor in any unreasonable number or which may be contrary to applicable law. The right of any Lot Owner to keep such a pet on any Lot is subject to the condition that the pet is not allowed to unreasonably annoy any other Lot Owner and is not allowed to run at large.

3.22 **WATER SUPPLY**

Each Dwelling shall be connected to the water supply mains of the Municipality. No individual wells shall be permitted.

3.23 **SEWAGE DISPOSAL**

Each Dwelling shall be connected to the Municipality's sewer system. No septic tank or individual sewage system shall be permitted.

3.24 **GARBAGE AND REFUSE DISPOSAL**

No Lot shall be used or maintained as a dumping ground for trash, garbage, refuse or debris of any kind. All trash, garbage or waste materials shall be in sanitary containers either inside the garage or, when outside, in sanitary containers adjacent to the Dwelling, and suitable screened from view from streets and adjoining lots. There shall be no burning or burial of any garbage, trash or debris at any time other than burning of leaves and light brush if approved by the ACC and conducted in compliance with all applicable laws and ordinances.

- (a) Outside incinerators are not permitted.

3.25 **WIRES AND ANTENNAS**

(a) All exterior telephone and electric service and utility wiring (including, without limitation, service lines to individual dwellings) shall be installed underground unless otherwise permitted by the ACC prior to such installations.

(b) No solar panel, external television, cable television, ham or radio antennas, dishes greater than 30 inches in diameter or other similar devices shall be erected upon, atop or on any dwelling or within any Lot without the prior approval of Developer or ACC.

3.26 **RESERVATION OF RIGHTS BY DEVELOPER**

(a) The Lots subject to these restrictions shall be subject to any easements granted or hereafter to be granted by the undersigned or its successors and assigns to the City of West Bend and easements granted or hereafter to be granted or the erection and maintenance of electric power lines and telephone lines, gas or other utilities upon, under and over portions of any Lot. The undersigned does hereby reserve for Developer and Developer's successors and assigns and for the benefit of the City of West Bend and public or semi-public utility companies, the easements and pipes and conduits for the transmission of electricity for lighting, telephone and for other purposes, and for the placing of the necessary attachments in connection therewith for public and private sewers, storm water drains, gas mains, water pipes and mains, and other similar services, and for performing any public or quasi-public utility or function which they or the City of West Bend may deem fit and proper for the improvement and benefit of the Lots. Such easements and right-of-way shall be confined, so far as possible, in the area within ten feet of all lot lines, with the necessary right to do whatever may be necessary to carry out the purposes for which this easement is created. Maintenance of easements shall be the responsibility of the Lot Owner.

(b) During the construction and marketing of the Subdivision, Developer shall retain certain rights set forth in this Declaration, which rights shall include, without limitation, the right, prior to the turnover date, to appoint all Members to the Board and ACC, as more fully described in Sections 4.08(a) and 5.01, respectively, and the right to enter upon the Subject Property in connection with Developer's efforts to sell Lots in the Subdivision and other rights reserved in this Declaration.

3.27 **FENCES AND WALLS**

No fence or wall of any height shall be permitted on any Lot except as required for a pool, decorative landscape purposes and fencing related to a dog kennel and upon the prior, written approval of the Committee; provided, however, that in no event, shall any proposed fence or wall be permitted to extend beyond the front face of the Dwelling as extended on a plane to the side Lot lines.

3.28 **RECREATIONAL VEHICLES**

All recreational vehicles, including but not limited to, any and all motorcycles, snowmobiles, trail bikes, dune buggies, boats, off-street motorized vehicles or recreational vehicles of any kind shall be stored in enclosed garages on the lot and shall not be operated or stored on the Lot, driveway, parking area or open space or common area within the Subdivision, except for the necessary transportation of these vehicles to and from the Subdivision on the

