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DOCUMENT NO.

DECLARATION OF COVENANTS AND RESTRICTIONS FOR HARBOR LIGHTS ESTATES

REGISTER OF DEEDS  
BROWN COUNTY

'97 FEB 18 PM 2 38

CATHY WILLIQUETTE  
REGISTER OF DEEDS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS (the "Declaration") is hereby made and established as of the 10th day of February, 1997, by Harbor Lights Development, L.L.C., a Wisconsin limited liability company (hereinafter the "Developer").

RECITALS

WHEREAS, Developer owns those lands located in the Town of Suamico, Brown County, Wisconsin, as legally described on Exhibit A attached hereto (the "Land");

WHEREAS, Developer intends to develop the Land as a residential subdivision containing approximately thirty-nine (39) lots known as "HARBOR LIGHTS ESTATES" (the "Subdivision"); and

WHEREAS, Developer desires to subject all of the Land (except dedicated streets and utilities), to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, for the benefit of the Subdivision as a whole and for the benefit of each Lot Owner.

DECLARATION

NOW, THEREFORE, DEVELOPER hereby declares that the real estate described on the attached Exhibit A (except for dedicated streets and utilities), shall be used, held, leased, transferred, sold, and conveyed subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, which shall inure to the benefit of and shall pass with each Lot as covenants running with the land and shall apply to and bind all successors in interest, users and owners.

DEFINITIONS, PURPOSE AND USE RESTRICTIONS

1.01 DEFINITIONS

(a) "Association" shall mean the HARBOR LIGHTS ESTATES HOMEOWNERS ASSOCIATION, an association which may be created under this Declaration.

(b) "Developer" shall mean HARBOR LIGHTS DEVELOPMENT, L.L.C., as well as any Successor-Developer.

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THIS SPACE RESERVED FOR RECORDING DATA

NAME AND BETTER ADDRESS

Kevin S. Dittmer  
Godfrey & Kahn, S.C.  
780 North Water Street  
Milwaukee, WI 53202

**BAY TITLE**

Parcel Identification Number

6200

(c) "Family" shall mean one or more persons related by bond, marriage or adoption who are living, sleeping, cooking and eating on the premises as a single housekeeping unit and shall exclude any person or groups of persons where three or more are not so related or engaged as household employees.

(d) "Home" shall mean a residential building designed and used as a dwelling for one family (which shall not include any attached garage).

(e) "Lake" shall mean that certain contiguous body of water identified on the official plat map of the Subdivision identified thereon as "Harbor Lights Lake" containing approximately 20.978 acres, and as the same may be enlarged or altered by Developer as hereinafter provided.

(f) "Lakebed" shall mean all of that certain land contained within the bed of the Lake.

(g) "Lake Lot" shall mean any lot with direct frontage on the Lake.

(h) "Lot" shall mean a platted lot within the Subdivision identifiable by reference to a name and lot number, and which has been expressly made subject to this Declaration. The term "Lot" does not include any portion of the Lakebed.

(i) "Lot Owner," "Lot Owners" or "Co-Owners" shall mean the holder(s) of a legal or equitable ownership interest in fee simple record title to a lot, regardless of the type of tenancy or estate and shall include land contract vendees and vendors, but shall not include the holder of any leasehold interest or any mortgage or consensual lien prior to acquisition of legal or equitable title.

(j) "Property" shall include a Lot and all improvements thereon.

(k) "Section" shall mean all those provisions within a numbered heading of this Declaration.

(l) "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; exterior lighting or electric fixture, antennae, tower, pole or bug control device; antenna, tower, dish or other device, free-standing or attached, for the transmission or reception of electronic signals; fence, retaining or other wall, fountain or aboveground or inground swimming or wading pool; plantings; driveway, sidewalk or walkway; pet kennels or run line; screened or other type of porch, patio or gazebo, tree house or other exterior play equipment; berms and swales; and any other type of equipment or facility for any decorative, recreational or functional purpose of any kind (including, without limitation, additions or alterations to or deletions from any of the foregoing) not located entirely within the exterior perimeter walls of the single family building constructed on the lot. Use of the phrase "structure or improvement" or any other use of such words shall not imply different meanings for such terms.

(m) "Subdivision" shall mean the lands described on the attached Exhibit "A," and such other portions of the Land as become subject to this Declaration pursuant to an amendment hereto, excluding lands now or hereafter dedicated to the Town.

(n) "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 the Developer by operation of law.

(o) "Town" shall mean the Town of Suamico, a municipal subdivision of Brown County, Wisconsin.

(p) "Water System" shall mean all improvements and facilities presently or hereafter erected or installed by Developer or its assigns, within or adjacent to the Subdivision for purpose of supplying fresh water to the Lots, including without limitation, all buildings, structures, towers, equipment, mains, laterals, hydrants and other facilities or improvements necessary or useful for the recovery, storage and distribution of fresh water to Lots in the Subdivision for consumption, fire protection and related purposes.

#### 1.02 GENERAL PURPOSE

The general purpose of this Declaration is to help assure that the Subdivision will become and remain an attractive residential area and in furtherance of such purpose: to preserve and maintain high aesthetic standards for all improvements, as well as the natural beauty of open spaces; 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 the Subdivision consistent with high aesthetic standards and the purposes for which each such Lot is platted; to encourage and secure the erection of attractive residential structures with appropriate locations 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 setback of structures and buildings for aesthetic appearance and to avoid blockage of views for other properties; to secure and maintain a proper spatial relationship of buildings, structures and other improvements to regulate use of the Lake; and to otherwise secure mutual enjoyment of benefits for owners and occupants of residential property within the Subdivision.

#### 1.03 SINGLE FAMILY USE: GENERAL RESTRICTIONS:

(a) Except for structures which are a part of the Water System, each Lot shall be used solely for residential purposes by one Family, except that business activities may be conducted in or from any Home if confined solely to the transaction of business by telephone. The term "residential purposes" shall include only those activities necessary for or normally associated with the use and enjoyment of a homesite as a place of residence and limited recreation.

Notwithstanding the foregoing, (i) the Developer or any builders approved by the Developer shall have the right to construct model homes which may be used as temporary sales offices, and (ii) the Developer shall have the right to construct and operate improvements upon any Lot (owned by Developer) which are a part of the Water System.

(b) Only one Home may be constructed on each Lot and no garage, tent, or other improvement (except for the Home) shall be used for temporary or permanent living or sleeping for family or guests without the prior approval of the Developer.

(c) Each Lot and all front, side and rear yards shall be maintained by the Lot Owner so as to be neat in appearance when viewed from any street or other Lot and, if not properly maintained, the Developer may perform yard maintenance and charge the costs thereof to the Lot Owner and levy an assessment against the Lot with respect thereto.

(d) Specific lots are subject to floodplain, wetland, conservancy or environmental corridor restrictions.

(e) 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 OWNERSHIP OF THE LAKE.

(a) The Lake and Lakebed are private property owned by the Developer or its affiliates or assigns. No Lot Owner shall have access to or rights to use or enjoy the Lake or any part thereof by virtue of Lot ownership except as expressly provided herein. There shall be no riparian rights appurtenant to any Lot. Any and all use of the Lake shall be subject to the terms, requirements, and other conditions established herein or as permitted below. Notwithstanding the foregoing, use of the Lake is permitted as follows:

(i) Owners of Lake Lots shall be permitted to install one (1) dock extending into the Lake from the Beachfront Area (defined below).

(ii) No person shall be permitted to use the Lake, except Lot Owners, any lawful resident of a Home and their respective guests. Each such person shall be permitted to use the Lake for fishing, swimming, wading, recreational boating and non-motorized winter sports such as ice-boating, skating, hiking and cross-country skiing. No powerboats, snowmobiles, jetskis, wave runners or other motorized vehicles of any kind shall be permitted at any time, except electric motors only shall be permitted on boats. Any person that is not the Owner or lawful resident of a Lake Lot (or guest thereof) shall access the Lake only through the Lake Access Easements (defined below).

(iii) Each Lake Lot Owner shall be entitled, at its expense, to install one dock extending into the water no more than twenty (20) feet from a point on said Lot which

shall be within the Beachfront Area (defined below). No dock shall be located closer than twenty (20) feet from an adjoining Lot, provided that the dock within any Lot having water frontage of forty (40) feet or less shall be located equidistant between adjoining Lot lines. No dock shall have a width greater than six (6) feet, or shall contain any attached structure or fixture which is unrelated to physical support of the dock. All docks shall extend from the Lake Lot in a perpendicular direction at 90 degree angles from an imaginary line drawn between the two points where the side-yard boundaries of said Lot intersect with the Lakebed. All docks shall be floating and anchored to the Lakebed or supported by a structure which rests on the top of the Lakebed and permits the free flow of water beneath the dock. Docks shall not be subject to design approval under Section 2.04 hereof, however, all docks shall be of a color and design compatible with the shoreline and shall be maintained in a neat and attractive manner. All docks shall be removed annually during times when the Lake is frozen and stored within the Beachfront Area in a sightly and attractive manner.

(iv) No fishing shall be permitted, except in compliance with all State fish and game laws, rules and regulations, including licensing and bag limits, applicable to the general public with respect to the Lower Bay of Green Bay, as amended from time to time.

(b) The Developer shall have the right at any time, in its sole and absolute discretion to transfer and convey the Lake, including the Lakebed, to the Association without charge. The Association shall accept such ownership and shall thereafter be responsible for the ownership, maintenance and operation of the Lake in a quality manner consistent with its purposes as a recreational and visual amenity.

(c) The Developer and the Association upon obtaining ownership of the Lake, shall each have the right to adopt Rules and Regulations governing the use and management of the Lake which are not contrary to the terms of this Declaration.

(d) All Lot Owners hereby acknowledge that there shall be no recourse to and hereby waive any and all claims, actions, rights, damages or liabilities against the Developer, its members and affiliates, arising out of or related to any property damage or personal or bodily injuries, costs, expenses or other damages incurred or suffered in connection with of use of the Lake. Said waiver shall further apply to the Association, its members, officers and agents from and after the date ownership of the Lake is transferred to the Association.

(e) No fill or other material shall be deposited upon or removed from the Lakebed without the Developer's prior written consent. Except for Developer, no person shall be entitled to enlarge or alter the Lake or Lakebed in any material respect. Except as provided with respect to docks, no Lot Owner shall be permitted to install or anchor any item to or upon the Lakebed, including without limitation, buoys or rafts.

(f) The Developer shall have the right to make application for and operate the Lake as a licensed private fish hatchery to enhance the recreational quality of the Lake for the benefit of

Lot Owners. No person permitted to use or have access to the Lake shall take, remove or disturb any fish or other wildlife in the Lake, except in compliance with all laws and regulations generally applicable to navigable bodies of public water in the State of Wisconsin.

(g) The Developer shall have the right at any time, and which may or may not be incidental to expansion of the Subdivision, to alter or enlarge the Lake at Developer's expense. The Developer anticipates enlarging, but is not obligated to enlarge, the Lake to encompass an additional area of approximately 25 acres of Lakebed as shown on Exhibit B attached hereto, which Exhibit is attached for illustrative purposes only, the Developer retaining full and absolute discretion to make any and all reductions, alterations, additions or modifications thereto as may be deemed necessary or desirable by Developer, in its sole and absolute discretion.

(h) Upon formation of the Association and transfer of the Lake thereto, each Lot Owner shall be responsible for an annual assessment related to the maintenance and upkeep of the Lake and may be subject to additional assessments determined to be necessary, all as set forth under Section 3.08 of this Declaration. Each Lot Owner shall be responsible for such assessments on an equal basis, calculated as the percentage equivalent of a fraction, the numerator of which is one (1) and the denominator of which is the number of Lots subject to this Declaration as of the first day of the time period for which the assessment has been levied.

#### 1.05 VEGETATION ZONE; BEACHFRONT

(a) There shall exist upon each Lake Lot a vegetation zone extending along the entire Lake frontage of each said Lot from the ordinary high water mark of the Lake to a line twenty-five (25) feet landward of the edge of the Lakebed (the "Vegetation Zone"). The Developer shall be responsible for initial planting or installation of vegetation within the Vegetation Zone, which shall be deemed fully completed upon the Lot Owner's acceptance of title to the applicable Lot, unless otherwise expressly agreed to in writing by the Developer. Thereafter, the Lot Owner shall be fully responsible, at its expense, for the maintenance of said Vegetation Zone during the entire length of Lot ownership and all succeeding Lot Owners shall assume and have the same responsibility. Said obligation shall include, without limitation, all repairs, maintenance and replacements necessary to keep the Vegetation Zone in its natural state and fully vegetated with the same or substantially similar plant species for the purpose of preventing erosion of the Lake shore and filtering the runoff of pollutants from upland areas. Said maintenance shall include the removal of exotic or undesirable vegetative material.

(b) Each Lake Lot Owner shall have the right, at its expense to clear and maintain an area within the Vegetation Zone for purposes of facilitating access to the Lake (the "Beachfront Area"), which shall have a frontage width of not more than the lesser of (i) forty (40) feet, or (ii) 50% of the total Lot frontage on the Lake, excepting further that Lot 11 may devote its entire frontage to Beachfront Area. No fill material, other than clean sand, shall be deposited into the Beachfront Area without the written consent of the party then responsible for granting the approvals required under Section 2.04 hereof (the "Approving Party"). The Beachfront Area shall at all times be maintained in a manner to prevent erosion control, but without the installation of artificial barriers or structures. If such prevention is not possible, the Approving

Party shall have the right to require, at the Lot Owner's expense, either (i) full or partial restoration of the Vegetation Zone, and/or (ii) the installation of rip rap consisting of natural stone material selected by the Approving Party.

#### 1.06 ACCESS EASEMENTS

Developer hereby reserves, establishes and imposes, for the benefit of itself and all Lots that are not Lake Lots, a perpetual, non-exclusive right, privilege and easement over that portion of those Lake Lots identified on the Subdivision plat as "Access Easements." The centerline of each Access Easement shall be the boundary line of the two Lake Lots affected by each Access Easement, and the total width of which shall be approximately twenty (20) feet, subject to the specific dimensions shown on the Subdivision plat. Each Owner and lawful resident of Lots that are not Lake Lots, as well as their guests shall have the right to use the Access Easements solely for pedestrian access to and from the Lake and the nearest public street. Use of the Access Easements by members of the public is expressly prohibited. The Association shall further have the right to use the Access Easements for purposes of managing and maintaining the Lake. Each Lot Owner shall be solely responsible at its expense, for maintaining that portion of any Access Easement which is located within its Lot. No obstruction or other barriers shall be located within an Access Easement. Each person shall be responsible to the applicable Lot Owner for any injury, damage, destruction or debris caused or deposited within an Access Easement.

#### 1.07 RESTRICTIONS ON USE OF RECREATIONAL VEHICLES

Recreational vehicles (which shall include snowmobiles, boats and other watercraft, trail bikes, travel trailers and vans, motor homes and dune buggies and other off-street motorized vehicles of any kind) shall not be parked, kept or stored on any Lot outside an enclosed garage without the prior approval of the Developer (which may be withheld in its sole and absolute discretion, including aesthetic appearances), except for temporary storage for loading and unloading purposes for a period of not more than 48 hours. Such recreational vehicles shall also not be used or operated on any Lot, the Lake or otherwise within the Subdivision, except on dedicated streets in accordance with applicable traffic laws.

#### 1.08 ANIMALS AND PETS

No livestock, poultry, reptile or other animal of any kind shall be raised, bred or kept on any Lot except that dogs, cats and other normal household pets (as may be approved by the Developer from time to time) may be kept so long as not kept, bred or maintained for any commercial purpose or in an unreasonable number (no more than two (2) dogs and three (3) cats are permitted per Lot) or manner, 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. No exterior pet kennels or related structures shall be permitted at any time.

1.9 GARBAGE AND REFUSE

No Lot shall be used or maintained for dumping or storage of trash, garbage, or debris of any kind, except for temporary storage in sanitary covered containers suitably screened from view from streets and adjoining Lot. There shall be no burning or burial of any garbage, trash, or debris at any time other than or burning of leaves and light brush if approved by the Developer, and conducted in compliance with all applicable laws and ordinances.

1.10 ENVIRONMENTAL AREAS

No removal of vegetation, altering of natural terrain or construction of improvements shall occur within any wetlands, floodplains or environmental corridors. All other activities therein shall be in compliance with all applicable laws and ordinances.

1.11 RELOCATED HOMES

No Home shall consist of and there shall not be permitted upon any Lot, any dwelling unit which is constructed and occupied outside the Subdivision and thereafter sought to be moved into the Subdivision. This Section 1.11, however, shall not apply to manufactured, panelized or modular homes which are first assembled on site, provided said structures are otherwise in conformance with this Declaration.

CONSTRUCTION OF IMPROVEMENTS

2.01 MINIMUM LIVING AREA AND HEIGHT REQUIREMENTS: GARAGES

(a) Each Home shall have a minimum living area (exclusive of basement, attic, garage, porches, patios and storage areas) as follows:

<u>STYLE</u>	<u>LAKE LOTS</u>	<u>OTHER LOTS</u>
Ranch	1,800	1,500
Two Story	2,200	1,800
1 1/2 Story	2,200	1,800
Split Level	2,200	1,800

(b) Each Home shall have a basement with a finished floor area (exclusive of any crawl space) of not less than 60% of the area of the first floor.

(c) No Home shall exceed three stories (excluding the basement) or 40 feet in height above finished grade, whichever is less.



(d) The roof of all Homes shall be pitched to rise at least five inches vertically for each twelve horizontal inches, unless specifically approved in writing by the Developer, which approval may be withheld in any case in the sole and absolute discretion of the Developer.

(e) An attached enclosed garage (for at least two and not more than four 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.

## 2.02 SUITABILITY

(a) Developer makes no representation or warranty whatsoever, express or implied, regarding the physical condition of any Lot. Developer recommends that prospective buyers have their Lot inspected and tested by a qualified professional regarding subsurface conditions or any other matter which may be of concern.

(b) Developer discloses that a portion of certain Lots may contain wetlands, floodplains, environmental corridors or other sensitive areas subject to laws and regulations further restricting use.

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

## 2.03 LOCATION AND SET-BACK

(a) All structures or improvements (including eaves, steps, overhangs, and attached porches, patios and other appurtenances) shall be located in conformance with applicable zoning and building codes. Each corner Lot shall be determined by the Developer to have one rear line one side Lot line, one front Lot line and a side street based on the proposed orientation of the Home and other improvements.

(b) Approval by the Plan Commission or Building Inspector of the Town with respect to set-backs or other matters shall not be binding on the Developer in any respect.

(c) Notwithstanding the set-back requirement 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 Developer prior to any construction, it being intended that the Developer may, in its discretion, impose greater set-back requirements than those specified above in order to achieve or maintain the aesthetic appearance for the Subdivision or any portions thereof which the Developer or the Developer deems advisable. Additionally, the approval of the exact location of the Home by the Developer may be for the purpose of ensuring a proper and consistent set-back of structures and buildings and to avoid blockage and views of other properties.

(d) The Developer may permit improvements (other than the Home and garage) to be constructed, installed and located within the municipal 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 them of the proposed improvement and affording them an opportunity to be heard with respect to the proposed improvement.

(e) No structure or improvements shall be erected, located or maintained within fifty (50) feet from the Lakebed, except for the dock permitted under Section 1.04(a) hereof.

(f) Each Lot Owner acknowledges and agrees that notwithstanding the reviews and approvals made or required under this Declaration, each Lot Owner has the responsibility for selecting and hiring its own architect or other design professional, construction contractor, subcontractors, material suppliers, inspection professionals and parties associated with the design and construction of the applicable Home, and the Developer have no responsibility whatsoever for such parties or for the quality or suitability of any design, materials, workmanship or foundation location, it being understood that the function of the Developer pursuant to the reviews and approvals required hereunder is solely to attempt to ensure compliance with the covenants and restrictions in this Declaration and the intent thereof, and that no Lot Owner shall be entitled to rely upon any such reviews or approvals other than as expressly provided under Section 2.04(e).

#### **2.04 ARCHITECTURAL CONTROL.**

(a) The Developer shall have the sole and exclusive right to grant approvals, enforce and determine compliance with the standards and restrictions established herein, and to grant variances therefrom, as set forth in this Declaration. The Developer shall retain such right and authority until Developer no longer holds title to any Lot in the Subdivision. Thereafter, the Association shall have the authority to grant the approvals required in this Section 2.04 and upon such event, the term "Developer" as used in this Section 2.04 shall mean the Association.

(b) No Home, garage or other structure or improvement of any kind shall be installed, erected, constructed or placed on any Lot (or altered or changed with respect to layout, location or exterior design, appearance, elevation, color or material composition) without: (1) prior submission of detailed plans and specifications to the Developer for its review; and (2) acquisition of prior written approval by the Developer with respect thereto. Plans to be considered appropriate for review by the Developer must include the following (unless the Developer advises a Lot Owner in writing to the contrary): construction drawings, plans and specifications (prepared by a qualified home designer or architect if the improvement involves construction of a Home, garage or addition or change to either) showing dimensions, composition and color of exterior materials and equipment, if any; and a plot plan showing the location of the improvement with respect to set-backs from Lot lines and other buildings and improvements, finish grade elevations, topography, drives, existing plantings and other data pertinent to such review by the Developer as it may reasonably request. The Developer may deny or withhold approval of any proposed improvement based upon any one or more of the following factors in the Developer's sole judgment: any one or more of the general purposes specified in Section 1.02 will not be satisfied; material composition and quality; exterior design, appearance and color; coordination with other existing or contemplated improvements; location

with respect to topography and existing surroundings; set-backs; finished grade elevations; access; drainage or landscaping; and general aesthetics. ANY LOT OWNER WHO CAUSES OR ALLOWS ANY IMPROVEMENTS TO BE CONSTRUCTED, INSTALLED, PLACED OR ALTERED ON THE LOT WITHOUT PRIOR WRITTEN APPROVAL OF THE DEVELOPER SHALL BE REQUIRED TO REMOVE SUCH IMPROVEMENT (OR RESTORE SUCH ALTERATION) IN ITS ENTIRETY AT THE LOT OWNER'S EXPENSE. Without intending to limit the generality of the foregoing, it is intended that the exterior color or appearance of any portion of a Home, garage or other improvement may not be changed in any significant respect without the prior written approval of the Developer.

(c) Construction of all Homes shall be in conformance with the established grade.

(d) Upon approval of the plans for the proposed improvement and upon receipt of any necessary Town and other governmental approvals or permits, construction or installation of the improvement may commence and, once commenced, shall be substantially completed within twelve (12) months following either acquisition of Developer approval or issuance of any required building permit by the Town, whichever is later. The Developer may, in its discretion, extend such completion deadline up to an additional six (6) months in the event the delay has been caused primarily by factors beyond the control of the Lot Owner and his/her contractors. For its own benefit to ensure compliance, the Developer may, at its discretion, require performance bonds from the contractors responsible for construction of the improvements.

(e) In the event the Developer fails to act upon proposed plans within 30 days following written acknowledgment by the Developer 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 (1) year following final completion thereof, no right shall exist to thereafter enforce these restrictions insofar as approval by the Developer is required as to such particular matter.

(f) Any approval or permission of the Developer under this Section, to be binding or effective, MUST BE IN WRITING signed by an authorized representative. No oral statements, representations or approvals of the Developer or any of its members or agents shall be binding on the Developer under any circumstances, regardless of any reliance thereon by any Lot Owner.

(g) Within 90 days following construction or installation of any improvement, the Lot Owner shall, upon written request of Developer, furnish an as-built certified survey showing the location of the improvement.

(h) Except to the extent necessary for the construction of exposed basements or split level homes, no portion of any Home located above grade level shall be covered within ground, soil or similar materials.

## 2.05 LANDSCAPING, GRADING AND DRAINAGE

(a) Landscaping plans, including mature shrubbery, must be submitted for approval in conjunction with building plans.

(b) All landscaping shall be performed in accordance with the plan approved by the Developer and shall be completed within twelve (12) months following the issuance of the occupancy permit for the Home. For its own benefit to be sure of compliance, the Developer may, at its discretion, require performance bonds from the applicable contractors.

(c) All grading and excavation activities shall be conducted in conformance with the then most current version of the Wisconsin Construction Site Handbook, published by the Wisconsin Department of Natural Resources. Except as may be expressly approved in writing by the Developer prior to the commencement of any work, there shall be no grading, excavation, cut and fill work or other alteration to the surface of any portion of the Lot (together "Surface Alterations"). All Surface Alterations shall be conducted in conformance with the master grading plan for the Subdivision (on file with the Town or the Developer's engineer). No Surface Alterations shall be conducted in a manner which causes erosion or instability of soils within an adjacent Lot or alters the patterns of storm and surface water drainage in a manner which has a material adverse effect on another Lot. The Owner proposing the work shall have the burden of demonstrating conformance with the foregoing. No consent shall be deemed given hereunder except in reference to a detailed grading plan specifically disclosing all aspects of the work for which approval is requested. All Lots shall be finish graded in conformance with the elevations required for the installation of sidewalks and said grades shall be maintained until the installation thereof. The Developer shall have the right to enter the Lot at any time for the installation of sidewalks and shall not be responsible for any lawn or landscaping damage to the extent reasonably necessary for said installation.

(d) No fence, wall, hedge, or screen planting shall be installed unless in accordance with landscaping or other plans approved in advance by the Developer under Section 2.04. In general, fencing will be discouraged other than for protection of swimming pools. No swimming pools shall be installed above the surface grade.

(e) Front yards, including side yards on common lot lines, shall be maintained as clipped lawns and only back and side yards of wooded lots may be left natural, subject to approval by the Developer.

(f) No fertilizer containing phosphorus shall be applied to any Lot in the Subdivision. The Developer shall also have the right at any time so long as Developer owns at least ten (10) Lots in the Subdivision, to prepare and place of record an amendment to this Declaration further prohibiting or restricting the use of any pesticides, herbicides, fertilizer or other substances which may have an adverse affect on the water quality of the Lake.

**2.06 DRIVEWAY**

Each Lot shall be improved by the Lot Owner with an asphalt, brick or concrete driveway extending from the street to the garage within six (6) months following issuance of an occupancy permit for the Home. A plot plan showing the location of the drive shall be submitted to the Developer for its prior approval under Section 2.04 above.

**2.07 CONSTRUCTION MATERIALS - STORAGE**

No building or construction 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. Excess excavated material shall not be stored on any Lot during or after construction without the prior approval of the Developer, unless required for back filling, finish grading, or landscaping. Any firewood located outdoors shall be neatly stacked within an area of the Lot that is not visible from any street. No outdoor firewood shall be covered with any material having colors other than muted earth tones compatible with natural surroundings.

**2.08 WATER SUPPLY**

(a) Each Home shall be connected to the Water System and no individual wells shall be used or permitted. Until such time as the Water System is dedicated to the Town or becomes part of a public utility, the Water System shall be privately owned by the Developer or its affiliates or assigns. The Developer contemplates and shall have the unqualified right and authority to establish and place of public record a Water Distribution Declaration (the "Water Declaration") governing the use, funding and operation of the Water System and the distribution and supply of fresh water to Lots in the Subdivision, including without limitation, the assessment of an initial connection fee and periodic service charges. The terms, fees, assessments, conditions and obligations of the Water Declaration shall be prior and superior to all mortgages, judgments, liens, claims and encumbrances accruing, arising or coming of record after the recording of this Declaration ("Subsequent Liens") regardless of when the Water Declaration comes of record, this Section serving as public notice thereof, and all of the Subsequent Liens shall be subject and subordinate to the terms and conditions of the Water Declaration. The Lot Owner agrees to execute or obtain any documentation requested by Developer to confirm said subordination with respect to any Subsequent Liens, including purchase money mortgages.

(b) Upon formation of the Association and appointment of the initial Board, the Developer shall have the right to convey, assign, grant and otherwise transfer to the Association, all of the Developer's right, title and interest in and to the Water System, and the Association shall accept title and ownership thereto and assume all of the obligations and responsibilities with respect to the use, operation and maintenance thereof under the Water Declaration, and the Developer shall be released from said liabilities and obligations as of the date of conveyance.

## 2.09 SEWERAGE DISPOSAL

Each Home shall be connected with the Town municipal sewer system and no septic tank or other individual sewerage system shall be used or permitted.

## 2.10 WIRES, ANTENNA, AND SOLAR PANELS; SURVEY MARKERS

(a) All utility lines and wiring for gas, electric, telephone, and cable television service to a Home, garage or other improvement shall be installed underground, unless otherwise permitted by the Developer in writing prior to installation. No Lot Owner shall remove, alter or disturb any monuments or survey markers, or install any improvement or vegetation that obstructs vision between the corner points of any Lot.

(b) No roof-top, tower-mounted or other external antenna or satellite dish for television or radio reception or transmission, or for other electronic transmission or reception or solar heating panels shall be erected or used without the prior written approval of the Developer, which approval may be denied in the Developer's sole and absolute discretion.

## 2.11 SIGNS

No sign or banner of any kind shall be placed or displayed to public view on any Lot, except: (i) one sign of not more than six square feet advertising the Property for sale; and (ii) one standard sign (showing the Lot Owner's name) as may be approved by the Developer for uniform use in terms of size, design, appearance and location for each Lot in the Subdivision.

## 2.12 OUTBUILDINGS

Each Lot Owner shall be entitled to construct one (1) free-standing storage building within the Lot for storage or any related purposes, provided that (i) the floor area of said structure shall not exceed 168 square feet, (ii) said structure shall have a pitched roof and be constructed with exterior materials substantially similar to those existing on the Home, and (iii) the Lot Owner shall fully comply in all respects with the requirements of Section 2.04 hereof prior to commencement of construction, including without limitation, design approval.

## 2.13 ORNAMENTAL LIGHTING

(a) The Developer shall have the right at any time, at its expense, to install ornamental lighting fixtures and related facilities within the public street right of ways within the Subdivision. The Developer shall retain ownership of such lighting facilities and be responsible for the cost of the maintenance and illumination thereof.

(b) The Developer shall have the right at any time to transfer ownership and maintenance of the ornamental lighting facilities to (i) any municipality, (ii) any public or private utility, or (iii) without charge, to the Association any time after formation thereof. If the ornamental lighting facilities are transferred to the Association, the Association shall accept such ownership

and be responsible for all costs associated with the repairs, maintenance, replacement and illumination of such lighting facilities.

## THE ASSOCIATION

### 3.01 CREATION

(a) The Developer shall have the right at any time after the recording of this Declaration, to create and establish a non-profit homeowner's association to be known as "HARBOR LIGHTS ESTATES HOMEOWNER'S ASSOCIATION," for the sole and exclusive purpose of accepting and assuming all of the rights, powers, privileges and obligations set forth under Section 3.06 hereof.

(b) The affairs of the Association shall be governed by the Board of Directors of the Association (the "Board"), as set forth under Section 3.05, below. The Developer may elect to cause the Association to be an unincorporated association or a non-stock, not for profit corporation formed under Chapter 181 of the Wisconsin Statutes. No Lot Owner or other party shall be entitled to compel the Developer to form the Association at any time other than as determined by the Developer.

### 3.02 MEMBERSHIP

(a) Each Lot Owner shall automatically be a member of the Association and shall be entitled to one membership and one vote for each Lot owned, with ownership of a Lot being the sole qualification for membership. The membership in the Association appurtenant to a Lot shall be owned jointly and severally by all co-Owners of the Lot, regardless of the form of tenancy, estate, or interest in the Lot.

(b) Association membership and voting rights shall be appurtenant to each Lot and shall not be assigned, conveyed or transferred in any way except upon transfer of an ownership interest in the Lot and then only to the transferee, nor shall membership or voting rights be retained except upon retention of an ownership interest in the Lot. Any attempt to make a prohibited transfer or retention of such rights shall be null and void.

(c) Notwithstanding any provision in this Declaration to the contrary, the Developer shall be entitled to one membership and one vote for each Lot owned by the Developer.

### 3.03 VOTING

(a) The vote appurtenant to each Lot shall be cast as a whole (in person or by proxy) by the Lot Owner or any co-Owner. Fractional votes will not be allowed; and if co-Owners of a Lot do not agree on how the vote shall be cast or if a fractional vote is attempted, the right to vote on the matter in question shall be forfeited by such Owners. The Association may treat any co-Owner of a Lot or the proxy of any such co-Owner as duly authorized to vote for all co-Owners of that Lot.

(b) A quorum for voting purposes shall consist of fifty percent (50%) or more of the votes entitled to be cast.

(c) There shall be no cumulative voting for election of Board members or on any other matters. All decisions and actions of the Association, except as otherwise specifically provided for in this Declaration, shall be by a majority of the votes present and entitled to be cast.

### 3.04 ASSOCIATION MEETINGS

(a) The annual meeting of the Association shall be held in June of each year for the purpose of electing members of the Board (subject to Section 3.05) and transacting any other business authorized to be transacted by the Association. The Board shall select the specific date, time and place of the annual meeting for a given year and shall furnish written notice to each Lot Owner.

(b) A quorum for meetings necessary to conduct Association business shall consist of Lot Owners, present in person or by proxy, representing a majority of all votes entitled to be cast. The act of a majority of the votes at any meeting at which a quorum is present shall be the act of the Association, unless a greater percentage is required under this Declaration. Written notice of all meetings of the Association stating the time, place, and purpose for which the meeting is called shall be given to each Lot Owner not less than four (4) nor more than 30 days prior to the date of such meeting; provided, however, that notice of any meeting may be waived in writing before or after the meeting.

### 3.05 MANAGEMENT OF ASSOCIATION BY THE BOARD

(a) The Association and its business, activities and affairs shall be managed by the Board. The initial Board shall be appointed by the Developer (regardless of how many Lots are then owned by Developer) and shall serve until the first annual meeting of the Association. Thereafter, so long as fifty percent (50%) or more of the Lots are owned by Developer, all three members of the Board shall be appointed by Developer. So long as twenty percent (20%) or more but less than fifty percent (50%) of the Lots are owned by Developer, two members of the Board shall be appointed by Developer and one member shall be elected as provided herein. So long the Developer owns at least one (1) Lot on the Subdivision but less than twenty percent (20%) of the Lots, one member of the Board shall be appointed by Developer and two members shall be elected as provided herein. If none of the Lots are owned by Developer, all of the members of the Board shall be elected as provided herein. Board members shall serve for a term of one (1) year.

(b) The Board may appoint committees consisting of one or more Lot Owners to make recommendations to the Board or the Association on any matter.

(c) No person shall receive any payment for services rendered as a member of the Board or the Committee or as an officer of the Association or as a member of any committee unless



specifically authorized by the Water Declaration or by prior resolution of the Association. The Committee may reimburse out-of-pocket expenses incurred by an officer or committee member in the performance of his/her duties.

(d) No member of any board or committee or officer of the Association shall be liable to any Lot Owner or to any other party, including the Association, for any loss or damage suffered or claimed on account of any act, omission, error or negligence of such board or committee member or officer, provide such person acted in good faith, without willful or intentional misconduct.

### **3.06 LOT OWNER'S LACK OF AUTHORITY TO BIND ASSOCIATION**

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

### **3.07 POWERS AND RESPONSIBILITIES OF THE ASSOCIATION**

(a) Without limitation, the Association shall have the following powers in addition to any others which may be necessary or incidental to performance of any duties or powers of the Association specified in this Declaration:

1. to levy and enforce payment of General and Special Assessments on the Lots and against Lot Owners;
2. to enforce this Declaration;
3. to purchase, sell and convey Lots (including the improvements thereon) incident to foreclosure of a lien for any assessment;
4. to enter and execute contracts, deeds, mortgages, and documents on behalf of the Association which relate to management of the Lake or improvements therefor;
5. to incur indebtedness on behalf of the Association (but only for the purposes of and as may be reasonably necessary for, carrying out its duties and obligations hereunder) and to execute drafts and other negotiable instruments;
6. to employ the services of any person, firm, or corporation to maintain the Lake or to construct, install, repair, replace or rebuild any improvements thereof;
7. to acquire, sell, transfer or exchange goods, equipment and other personal property or fixtures in the name of the Association for the operation of the Association;

8. to commence, prosecute, defend or be a part to any suit, hearing or proceeding (whether administrative, legislative or judicial) involving the enforcement of this Declaration or otherwise involving the exercise of any powers, duties or obligations of the Association;
9. subject to Section 1.04 hereof, to adopt Rules and Regulations for the management, operation, use and enjoyment of the Lake, including fines or penalties which may be enforceable by Special Assessment against any Lot Owner or his/her family or guests violating such Rules or Regulations;
10. to exercise all other powers necessary to maintain the Lake for its intended purpose and operate the Association for the mutual use and enjoyment of all Lot Owners; and
11. upon transfer of the Water System to the Association pursuant to Section 2.08 hereof, to accept and assume all of the rights, powers, privileges and obligations of the Developer under the Water Declaration.

(b) Any two members of the Board acting together are empowered to negotiate, execute and enter contracts, agreements and other undertakings or documents of any kind on behalf of the Association necessary or incidental to exercise of any powers or obligations of the Association or of the Board under this Declaration.

### **3.08 COMMON EXPENSES AND ASSESSMENTS AGAINST LOTS AND LOT OWNERS**

(a) The Board shall pay or arrange for payment for all costs, expenses and liabilities incurred by the Association out of the proceeds of assessments which shall be made against the Lot Owners and their Lots.

(b) "Special Assessments" may be made and levied by the Board against a particular Lot Owner and his/her or their Lot (without levy against other Lots) for:

- (1) costs and expenses (anticipated or incurred) for repair of damage to the Lake caused by or at the direction of the Lot Owner, the family or guests of the Lot Owner, or any other party for whom a Lot Owner is responsible;
- (2) costs, expenses and actual attorney's fees incurred in, or in anticipation of, any suit, action or other proceeding to enforce this Declaration against the Lot Owner;
- (3) interest due on General or Special Assessments; and
- (4) all other costs and expenses anticipated or incurred by the Association which are subject to Special Assessments as provided under this Declaration.

(c) "General Assessments" may be made and levied by the Board equally against each Lot Owner and his/her or their Lot for the following "common expenses" which may be anticipated, incurred or paid by the Association for:

- (1) maintenance, repairs, upkeep or operation of the Lake, including fish hatchery operations, and any improvements or equipment related thereto as may be acquired by the Association;
- (2) any insurance maintained by the Association;
- (3) taxes, assessments and charges of any kind made or levied by any governmental authority against the Association or upon the Lake or any other property of the Association;
- (4) all costs and expenses for the operation and administration of the Association, including legal, accounting and management fees and other costs incident to the exercise of any of its powers or obligations;
- (5) costs and expenses for additional improvements to the Lake beyond those installed by Developer;
- (6) all items subject to Special Assessment which have not been collected from a Lot Owner at the time payment of such item is due, provided that upon collection of the Special Assessment from that Lot Owner, all other Lot Owners shall receive an appropriate adjustment, reimbursement or credit on future General Assessments, as the Board may determine, for payments made under this paragraph;
- (7) all damages, costs, expenses and attorney fees incurred in, or in anticipation of, any suit or proceeding (whether administrative, legislative or judicial) which are not otherwise collected by Special Assessment;
- (8) all costs and expenses associated with the ownership of ornamental street lighting as described in Section 2.13 hereof;
- (9) costs and expenses of services, if any, made available to all Lots and/or for the Lake; and
- (10) all other costs and expenses declared to be common expenses under this Declaration.

The General Assessments for any of the foregoing expenses shall be levied equally against each Lot, pursuant to the provisions of Section 1.04.

(d) The Association shall maintain separate books and records for General and Special Assessment accounts of the Lot Owners, as may be necessary, provided that all funds received from either assessment may be co-mingled and thereafter disbursed to pay any costs or expenses incurred by the Association which would be subject to General or Special Assessment.

(e) Developer shall be responsible for all assessments levied against any platte<sup>d</sup> Lot prior to a sale of such Lot by Developer. However, Developer shall not be responsible for any General or Special Assessments which may be levied for improvements, capital expenditures, reserves, or replacement funds of any kind. The Board may at any time levy assessments for such purposes against the Lot Owners (other than Developer) and against all Lots, including those owned by Developer, except that such Assessments against any Lot(s) owned by Developer shall not be due or otherwise collectible until Developer conveys title to such Lot and then only from the Developer's successors in interest, with any lien therefor not being effective until after the date of transfer of title.

(f) The Board shall determine the estimated expenses of the Association and prepare an annual operating budget in order to determine the amount of the annual General Assessments necessary to meet the estimated common expenses of the Association for the ensuing year and shall furnish a copy to each Lot Owner or one of the co-Owners of the Lot. Notwithstanding the foregoing, for time prior to the date at which Developer is no longer entitled to appoint any Board members, the Board shall have the right, but not the obligation, to estimate annual operating expenses, prepare an operating budget and/or deliver copies thereof to individual Lot Owners.

### 3.09 PAYMENT OF ASSESSMENTS

(a) Each Lot Owner shall promptly pay, when due, all General and Special Assessments levied by the Board against such Owner and his or their Lot, together with all costs, expenses and reasonable attorney fees incurred by the Association in collection of any delinquent assessment(s). All assessments shall become due at such times and in such manner as the Board may determine in its sole and absolute discretion (in a lump sum or in installments with or without interest). Time is of the essence with respect to all payments.

(b) All co-Owners of a Lot shall be jointly and severally liable for all General and Special Assessments levied against the Lot, regardless of the type of tenancy, estate or interest in the Lot (whether as joint tenants, tenants-in-common, land contract purchaser(s) or seller(s), or otherwise).

### 3.10 DELINQUENT ASSESSMENTS: INTEREST, LIEN AND COLLECTION

(a) All General and Special Assessments which are not paid when due shall bear interest at the lesser of twelve percent (12%) per annum, or the maximum rate as may then be permitted by law, from the date due until the assessment is paid in full; shall constitute a lien on the Lot; and shall be collectible and enforceable by the Board (in its own name or the name of the Association) by suit against the Lot Owner, by foreclosure of the lien, and/or in any other manner

or method provided under this Declaration or laws of the State of Wisconsin. The lien granted hereunder shall also cover and include all interest accruing on delinquent assessments, plus costs, expenses and attorney's fees for collection.

(b) The Developer, the Association (through the Board) shall have the exclusive right and power to collect or enforce collection of all General and Special Assessments levied by the Board and shall further have the exclusive right to bring any and all actions and proceedings for the collection thereof and/or the enforcement of liens arising therefrom. The Board shall have the right to record a document with the Register of Deeds of Brown County giving notice of a lien for any unpaid assessment. Failure to file any such notice shall not impair the validity of a lien. The Association may bring an action at law against any Lot Owner personally to collect such assessments and/or to foreclose the lien for such assessments against the Lot (in the same manner and method as an action to foreclose a real estate mortgage). The Board shall have the right at any time to notify all Lot Owners within the Subdivision of the delinquency of any Lot Owner.

### 3.11 RULES AND REGULATIONS

(a) Subject to Section 1.04 hereof, the Board may from time to time adopt or change rules or regulations (hereafter "Rules or Regulations") governing the operation, maintenance and use of the Lake by the Lot Owners and their respective families and guests. Such Rules or Regulations shall be designed to facilitate the use and function of the Lake for their intended purposes. All Lot Owners, lessees, licensees, invitees, or other occupants, and guests of any Lot in the Subdivision shall abide by such Rules and Regulations.

(b) A violation of any Rule or Regulation shall be a violation of this Declaration and may be enforced by the Board in the same manner as any other term or provision of the Declaration or as otherwise may be designated in the Rule or Regulation, including without limitation the imposition of forfeitures, penalties, or other charges against the Lot Owner, which shall be collectible by Special Assessment against the Lot and Lot Owner.

### 3.12 SERVICE OF PROCESS

Service of process upon the Association for all matters shall be made upon the president of the Association or such legal counsel as the Association may designate to receive service of process by recording such designation with the Register of Deeds for Brown County, Wisconsin.

## MISCELLANEOUS

### 4.01 AMENDMENTS TO DECLARATION

This Declaration may be amended by recording in the Office of the Register of Deeds for Brown County, Wisconsin, a document to that effect executed by the Owners of at least 67% of all Lots in the Subdivision and their mortgagees, with all signatures duly notarized. Such amendment shall become effective only upon recording. Notwithstanding the foregoing, the Developer shall have the right at any time, and from time to time, regardless of whether Developer then holds title to any Lot, to amend this Declaration to cause all or a part of the lands described or shown on Exhibit B to become subject to this Declaration, and upon the recording of said amendment any residential lots described therein shall become a part of the Lots for all purposes under this Declaration, including without limitation, the calculation of proportionate responsibility for assessments under Section 1.04, the Developer's right to appoint members of the Board under Section 3.08(a) and the calculation of the number of Lots necessary to amend this Declaration. Prior to said amendment, and subject to applicable ordinances, Developer shall have the right at any time in his sole and absolute discretion, without notice, to alter the number, size or location of lots, the layout or design of streets, utilities, expansions to the Lake or other improvements, and any other aspect of the design or development thereof. The layout of additions to the Subdivision described on Exhibit B is provided for illustrative purposes only.

### 4.02 RESERVATION BY DEVELOPER OF RIGHT TO GRANT EASEMENTS

Developer hereby reserves the right to grant, convey or establish easements to the Town and/or to any public or private utility company (including the entity operating the Water System) upon, over, through or across those portions of any Lot in the Subdivision within a reasonable distance from any Lot line for purposes of allowing the provision of gas, electric, water, sewer, cable television or other service to any Lot(s) or through any portions of the Subdivision or for purposes of facilitating drainage of storm or surface water within or through the Subdivision. Such easements may be granted by Developer, in its own name and without the consent or approval of any Lot Owner, until such time as Developer has conveyed legal title to all Lots platted or to be platted in the Subdivision to persons other than a Successor/Developer.

### 4.03 SEVERABILITY

The invalidity or unenforceability of any term, condition or provision of this Declaration shall in no way affect the validity or enforceability of any other term, condition, or provision of this Declaration, all of which shall remain in full force and effect.

### 4.04 COVENANTS RUN WITH LAND

All terms, conditions and provisions of this Declaration (and as may be amended) shall constitute covenants running with the land.

#### 4.05 TERM OF DECLARATION

This Declaration (and any amendments) shall be binding for a period of 20 years (from the date the Declaration is recorded) upon all Lot Owners and any other persons claiming under or through the Developer. Upon the expiration date of such initial 20-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 the Owners of at least 75% of all Lots in the Subdivision 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 20-year term, whichever occurs later.

#### 4.06 DISCLAIMER

Notwithstanding any other provision(s) of this Declaration, Developer is under no obligation to any Lot Owner to develop or plat at any time any portion of the Subdivision not already platted as of the date of recording this Declaration.

#### 4.07 ENFORCEMENT

(a) The Developer 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 Developer, except that the Association shall assume such exclusive responsibility at such time as the Developer, its successors or assigns, no longer owns a Lot in the Subdivision. Notwithstanding the foregoing, any Lot Owner may proceed, at such Owner's expense and subject to the limitations of Section 2.05(f), to enforce any such terms, conditions or provisions (other than for collection of assessments against Owners of other Lots) if the Developer or Association, as the case may be, fails to take such appropriate action within 60 days following a written request by such Lot Owner to do so. Any Lot Owner violating any of the terms, conditions or provisions of this Declaration or any Rules or Regulations shall pay all costs, expenses and actual attorney's fees incurred by the Developer, Association or by a prosecuting Owner in the successful enforcement thereof. Neither the Association or the Developer shall be subject to any suit or claim by any Lot Owner for failure of the Association or the Developer to take any action requested by such Lot Owner against any other Lot Owner.

(b) The Developer shall have the right to levy and collect an assessment (which is due upon receipt of notice) against any Lot for any costs and expenses incurred by the Developer in the enforcement of the provisions of this Declaration with respect to such Lot, including without limitation, costs incurred under Section 1.03(c) hereof, and the cost of consultants and actual attorneys' fees, and whether or not litigation is commenced with respect thereto. The Developer shall further have the right to levy and collect an assessment against all Lots in the Subdivision for reimbursement of costs and attorneys' fees incurred by Developer in the enforcement of this Declaration, provided that (i) said assessment shall be equally allocated to all platted Lots in the Subdivision, including those owned by Developer, and (ii) any enforcement costs recovered from the violating Lot Owner shall be credited or refunded to Owners of Lots against which the

assessments were made. Any assessments not paid when due shall bear interest at 12% per annum until paid in full, and such unpaid assessment, together with the interest thereon, shall constitute a continuing lien against the real estate for which the assessment is made. Said lien may be foreclosed in the same manner as real estate mortgages under Wisconsin law, provided that such liens shall be subordinate to any purchase money or construction mortgage. The assessment and interest thereon shall further be the personal obligation of the applicable Lot Owner.

(c) Each remedy set forth in this Declaration 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 Developer to exercise any such right or remedy for any violation (including, without limitation, violations of Section 2.05(e)) shall not be a waiver of such right or remedy under any circumstances (except as provided in Section 2.05(c)) unless a written waiver is obtained from the Developer.

(d) 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 Lot.

#### 4.08 NO LIABILITY

All decisions of the Developer or the Board on any matter (including, without limitation, decisions under Section 2.04) shall be enforceable against any Lot Owner if made in a good faith exercise of the judgment or discretion of its members so long as such decision is not clearly in conflict with the express provisions of this Declaration. Any Lot Owner or other person seeking to avoid, set aside or challenge any such decision of the Developer or the Board shall have the burden of proof to establish that such standards were not met at the time the decision was made.

#### 4.09 WAVIER OF IMMUNITY

In furtherance and not in limitation of any of the terms of this Declaration, the Developer intends that this Declaration shall be and remain at all times until expiration hereof, fully enforceable against all Lots and any person, entity, trust, organization, governmental unit or sovereign nation which may become a Lot Owner. Accordingly, any such person, entity, trust, organization, governmental unit or sovereign nation which becomes a Lot Owner, whether by virtue of conveyance, operation of the law or otherwise, shall be conclusively deemed to have waived any and all defenses to and immunity from enforcement of this Declaration based upon the legal or ethnic status of such Lot Owner, including without limitation sovereign immunity, this Declaration serving as full and adequate public notice of said waiver. Said waiver shall apply to the terms, conditions and encumbrances established in this Declaration, together with any future liens, claims, easements or encumbrances expressly permitted hereunder, including without limitation (i) the Water Declaration under Section 2.08, (ii) the liens for assessments under Section 4.07, (iii) the easements under Section 4.02 and (iv) the right of repurchase under Section 4.07.





Exhibit A

Legal Description of First Phase of Subdivision

Harbor Lights Lake Phase II - Part of Government Lot 2 and part of the NW 1/4 - SW 1/4,  
Section 24, Township 25 N, Range 20 East, Town of Suamico, Brown County, Wisconsin.

1538916

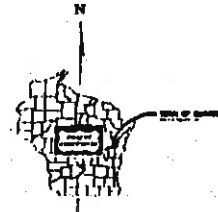
# HARBOR LIGHTS LAKE

Exhibit

AREA DEVELOPMENT MAP  
PART OF GOVERNMENT LOTS 2 & 3 AND PART OF THE SOUTHWEST 1/4,  
ALL IN SECTION 24 T25N-R20E, TOWN OF SUAMICO, BROWN COUNTY, WISCONSIN

MARKETED BY: DAN HUJET

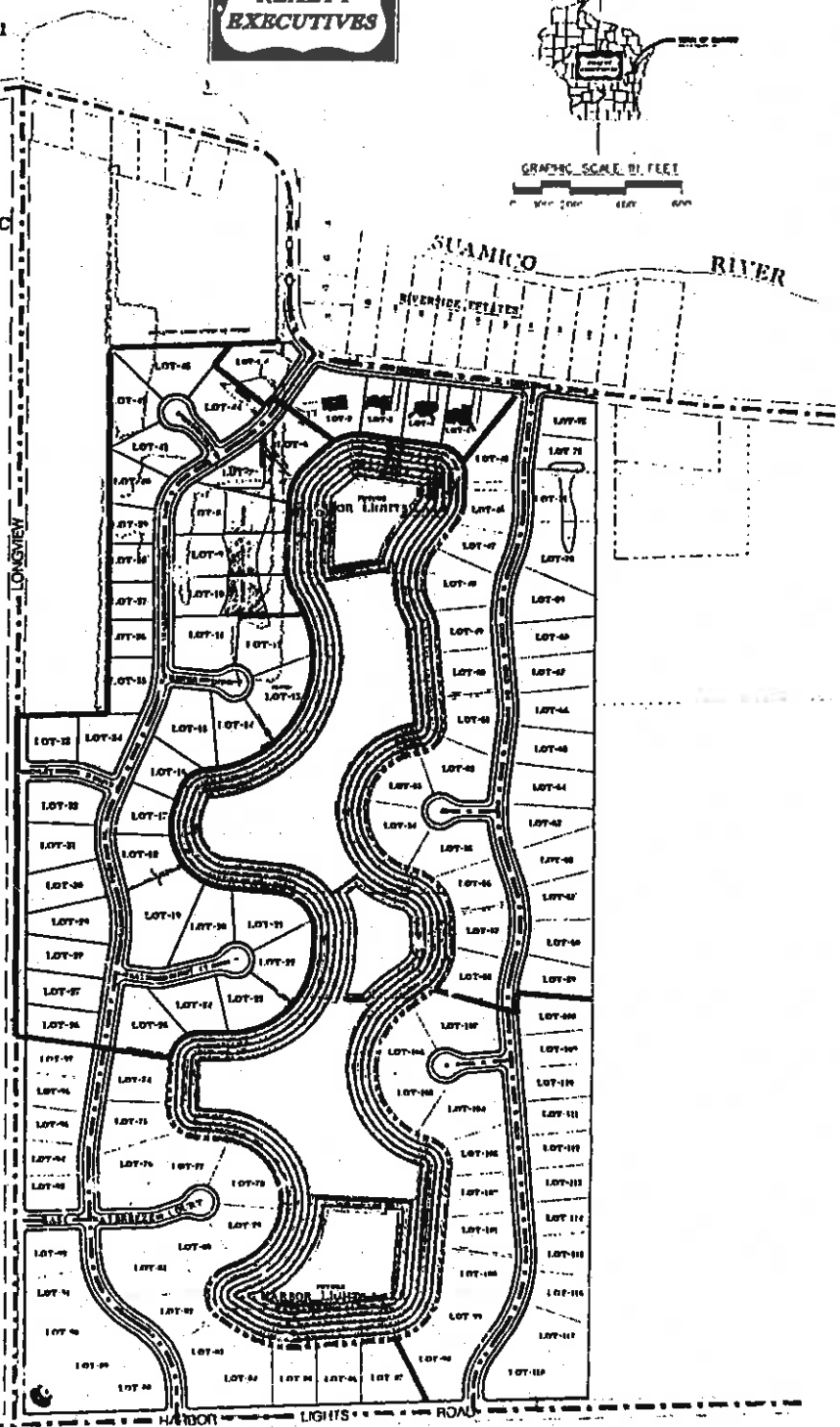
**OWNER & DEVELOPER:**  
HARBOR LIGHTS LAKE DEVELOPMENT, LLC  
DAN HUJET  
P.O. BOX 10261  
GREEN BAY, WI 54307-0261  
PHONE 479-0163



GRAPHIC SCALE IN FEET



**SURVEYOR:**  
MICHAEL M. SOLETSKI  
SOLETSKI SURVEYING, LLC  
1154 MOHICAN COURT  
GREEN BAY, WI 54311  
PHONE 490-0011



1545773

DOCUMENT NO.

AMENDMENT TO DECLARATION  
AND TERMINATION  
OF COVENANTS AND RESTRICTIONS

REGISTER OF DEEDS  
BROWN COUNTY  
'97 APR 10 PM 3 50  
CATHY WILLIQUETTE  
REGISTER OF DEEDS

THIS AMENDMENT AND TERMINATION AGREEMENT is hereby made and entered into as of the 31 day of March, 1997, by Harbor Lights Development, L.L.C., a Wisconsin limited liability company ("Developer") and the parties signing below.

WHEREAS, Developer has prepared and placed of record the Declaration of Covenants and Restrictions for Harbor Lights Estates dated as of February 10, 1997, recorded with the Brown County Register of Deeds on February 18, 1997 as Document No. 1538916 (the "Declaration").

WHEREAS, the Declaration encumbers and applies to that certain land located in the Town of Suamico, Brown County, Wisconsin as legally described on Exhibit A attached hereto (the "First Phase Subdivision").

WHEREAS, the Developer further owns the following described real estate located in the Town of Suamico, Brown County, Wisconsin:

Lots 1, 3, 4 and 5 of Harbor Lights Lake Phase I - Part of Governmental Lots 2 and 3, Section 24, Township 25 North, Range 20 East.

WHEREAS, Michael Cooney and Doreen Cooney, husband and wife, (together the "Lot Owners") own the following described real estate located in the Town of Suamico, Brown County, Wisconsin:

Lot 2 of Harbor Lights Lake Phase I - Part of Government Lots 2 and 3, Section 24, Township 25 North, Range 20 East.

WHEREAS, the above-described Lots 1, 2, 3, 4 and 5 shall be referred to herein as the "Initial Phase Subdivision;"

WHEREAS, the Initial Phase Subdivision is restricted and encumbered by those certain covenants and restrictions shown on the Subdivision Plat for the Initial Phase Subdivision, recorded at Volume 20 of Plats, Page 95 on August 19, 1996 as Document No. 1514562 (together the "Initial Covenants").

WHEREAS, Developer owns more than sixty-seven percent (67%) of the Lots in the First Phase Subdivision and is therefor empowered to amend the Declaration without the consent or

THIS SPACE RESERVED FOR RECORDING DATA

NAME AND RETURN ADDRESS  
Kevin S. Dittmar  
Godfrey & Kahn, S.C.  
780 North Water Street  
Milwaukee, WI 53202

Parcel Identification Number

approval of another party, and further has the right to add certain additional lands to the Declaration without the consent of others under Section 4.01 thereof;

WHEREAS, Developer and the Lot Owners desire to terminate the Initial Covenants and amend the Declaration to cause the Initial Phase Subdivision to become subject to and encumbered by the Declaration for purposes of having the Initial Phase Subdivision and First Phase Subdivision become managed and governed as an integrated real estate development, as more specifically provided below.

NOW, THEREFORE, in consideration of the recitals provided above and the terms and covenants set forth below, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. Termination. The Developer and Lot Owners, being the parties holding fee simple title to all of the Lots in the Initial Phase Subdivision, hereby finally and forever terminate the Initial Covenants for all purposes from and after the date hereof.

2. Amendment. Developer hereby amends the Declaration as permitted under Section 4.01 thereof to provide that all of the Lots in the Initial Phase Subdivision shall become fully subject and subordinate to and encumbered and governed by the Declaration for all purposes in the same manner as though such Lots were a part of the real estate initially made subject thereto. The Lot Owners hereby consent and agree that Lot 2 of the Initial Subdivision shall be subject to and encumbered by the Declaration as just provided.

3. Water Supply. All of the Lots in the Initial Phase Subdivision shall be connected to and served exclusively by the community water system to be installed by Developer promptly following the date service is available therefrom, and upon connection by any such Lot, any private well facilities located upon such Lot shall be permanently removed or abandoned in compliance with applicable law.

4. Miscellaneous. This Agreement shall be effective as of the date first above written. The terms and conditions set forth herein shall be covenants running with the land and binding upon the parties hereto and their respective successors, heirs and assigns.

Entered and agree to as of the date set forth above.

HARBOR LIGHTS DEVELOPMENT, L.L.C.

By: *David Dornier*

By: *David M. Parker*

By: *Denise Hays*

Michael J. Cooney  
Michael Cooney

Doreen M. Cooney  
Doreen Cooney

STATE OF WISCONSIN )  
COUNTY OF BROWN ) SS

Personally came before me this 31 day of March, 1997, the above-named DANIEL JACOBSEN, DANIEL DORAN and DANIEL HUIET as the Members of Harbor Lights Development, L.L.C. to me known to be the persons who executed the foregoing document and acknowledged the same in such capacity.



Michelle L. Hinz  
\* Michelle L. Hinz  
Notary Public, State of Wisconsin  
My commission: Dec. 03, 2000

STATE OF WISCONSIN )  
COUNTY OF BROWN ) SS

Personally came before me this 10 day of <sup>April</sup> ~~March~~, 1997, the above-named Michael Cooney and Doreen Cooney, to me known to be the persons who executed the foregoing document and acknowledged the same.

Daniel Huiet  
\* DANIEL HUIET  
Notary Public, State of Wis  
My commission: OCT 22, 2000



DRAFTED BY:  
KEVIN S. DITTMAR

1545773

EXHIBIT A

Harbor Lights Lake Phase II - Part of Government Lot 2 and part of the NW 1/4 - SW 1/4,  
Section 24, Township 25 N, Range 20 East, Town of Suamico, Brown County, Wisconsin.

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1607140

SECOND AMENDMENT TO  
DECLARATION  
OF COVENANTS AND RESTRICTIONS

BROWN COUNTY  
REGISTER OF DEEDS  
CATHY WILLIQUETTE

DOCUMENT NO.

1998 APR 14 P 2:35

THIS SECOND AMENDMENT is hereby made and entered into as of the 9<sup>th</sup> day of February, 1998, by Harbor Lights Development, L.L.C., a Wisconsin limited liability company ("Developer").

WHEREAS, Developer has prepared and placed of record the Declaration of Covenants and Restrictions for Harbor Lights Estates dated as of February 10, 1997, recorded with the Brown County Register of Deeds on February 18, 1997 as Document No. 1538916, as amended by the Amendment to Declaration dated as of January 15, 1998, recorded with the Brown County Register of Deeds on January 30, 1998 as Document No. 1592437 (the "Declaration").

THIS SPACE RESERVED FOR RECORDING  
DATA

140

NAME AND RETURN ADDRESS  
Kevin S. Dittmar  
Godfrey & Kahn, S.C.  
780 North Water Street  
Milwaukee, WI 53202

WHEREAS, the Declaration encumbers and applies to that certain land located in the Town of Suamico, Brown County, Wisconsin as legally described on Exhibit A attached hereto (the "Subdivision").

Parcel Identification Number

WHEREAS, Developer owns more than sixty-seven percent (67%) of the Lots in the Subdivision and is therefor empowered to amend the Declaration without the consent or approval of another party, and further has the right to add certain additional lands to the Declaration without the consent of others under Section 4.01 thereof;

WHEREAS, Developer desires to further amend the Declaration, as more specifically provided below.

NOW, THEREFORE, in consideration of the recitals provided above and the terms and covenants set forth below, the receipt and sufficiency of which is hereby acknowledged, the Developer does hereby amend the Declaration as follows:

1. Vegetation Zone: Beachfront. Section 1.05 of the Declaration shall be amended to permit Lot 15 to devote its entire Lake frontage to Beachfront Area, but in any event not more than a total of forty (40) feet in width.

2. Access Easements. Section 1.06 of the Declaration shall be amended to provide that use of the Access Easements shall be limited exclusively for (i) access by public safety or emergency vehicles and personnel, and (ii) access by the Association, its contractors or agents, for management and maintenance of the Lake.



3. Dock Facilities. Section 1.04(a)(iii) of the Declaration shall be amended to provide that Lot Owners shall be permitted to install an all-season, non-portable dock anchored to the Lakebed, subject to and conditioned upon, however, full and complete design review and approval under Section 2.04 of the Declaration prior to any construction or installation.

4. Limited Amendment. Except as specifically and expressly provided herein, the Declaration shall remain unmodified and in full force and effect.

5. Miscellaneous. This Agreement shall be effective as of the date first above written. The terms and conditions set forth herein shall be covenants running with the land and binding upon the parties hereto and their respective successors, heirs and assigns.

Entered and agree to as of the date set forth above.

HARBOR LIGHTS DEVELOPMENT, L.L.C.

By: Daniel Hudot - Managing member.

By: Dan Dornier

By: \_\_\_\_\_

STATE OF WISCONSIN        )  
  ) SS  
COUNTY OF BROWN        )

Personally came before me this 9 day of <sup>February</sup> ~~January~~, 1998, the above-named DANIEL HUDOT, \_\_\_\_\_ and DAN DORNIER as the Members of Harbor Lights Development, L.L.C. to me known to be the persons who executed the foregoing document and acknowledged the same in such capacity.

\* Catherine Kaster  
Notary Public, State of Wis.  
My commission: 8-8-99

CATHERINE KASTER

MW1-107567-1

DRAFTED BY:  
JANE JELSY

**1607140**

EXHIBIT A

Harbor Lights Lake Phase II - Part of Government Lot 2 and part of the NW 1/4 - SW 1/4,  
Section 24, Township 25 N, Range 20 East, Town of Suamico, Brown County, Wisconsin.