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Declaration of Restrictions for  
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Richfield, Wisconsin  
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*Walter J. Young*  
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OF WASHINGTON COUNTY

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DECLARATION OF RESTRICTIONS  
FOR  
WEXFORD HEIGHTS  
RICHFIELD, WISCONSIN

"WEXFORD HEIGHTS", being a subdivision of a part of the Northwest 1/4, Northeast 1/4, Southeast 1/4 and Southwest 1/4 of Section 3, Town 9 North, Range 19 East, in the Town of Richfield, Washington County, Wisconsin, being more particularly bounded and described as follows:

Commencing at the Southwest corner of the Southwest 1/4 of Section 3, said point also being the place of beginning of the lands hereinafter described:

Running thence North 00 degrees 44'52" West along the West line of said Southwest 1/4 Section, 1519.40 feet to the Southwest corner of Certified Survey Map No. 2363; thence North 89 degrees 15'08" East along the South line of the said Certified Survey Map No. 2363, 360.00 feet to a point in the Southeast corner of said Certified Survey Map No. 2363; thence North 00 degrees 44'52" West along the East line of said Certified Map No. 2363, 200.00 feet to a point in the North line of said Certified Survey Map No. 2363; thence South 89 degrees 15'08" West along the North line of said Certified Survey Map No. 2363, 360.00 feet to a point in the West line of said Section 3; thence North 00 degrees 44'52" West along the West line of said Section 3, 715.90 feet to a point in the Southwest corner of Certified Survey Map No. 1370; thence North 89 degrees 45'26" East along the South line of Certified Survey Map No. 1370, 360.00 feet to a point in the Southeast corner of said Certified Survey Map No. 1370; thence North 00 degrees 44'52" West along the East line of Certified Survey Map No. 1370, 200.00 feet to a point 16.50 feet South of the North line of the said Southwest 1/4 of Section 3; thence North 89 degrees 45'26" East along a line 16.50 feet South and parallel to the North line of the Southwest 1/4 of said Section 3, 959.69 feet to a point; thence South 04 degrees 46'32" West, 7.95 feet to a point in the South line of a 33 foot easement for ingress and egress; thence South 66 degrees 44'34" East along the South line of said 33 foot easement; 390.56 feet to a point; thence South 76 degrees 19'34" East along the South line of said 33 foot easement, 241.87 feet to a point in the West line of Certified Survey Map No. 4312; thence South 14 degrees 26'32" West along the West line of Certified Survey Map No. 4312, 178.50 feet to a point; thence South 11 degrees 47'45" East along the West line of Certified Survey Map No. 4312, 190.92 feet to a point in the Southwest corner of Certified Survey Map No. 43.12; thence South 83 degrees 28'41" East along the South line of Certified Survey Map No. 4312, 740.84 feet to the East line of the said Southwest 1/4 of Section 3; thence South 00 degrees 53'33" East along the East line of the said Southwest 1/4 of Section 3, 643.55 feet to a point; thence South 89 degrees 39'22" West, 656.00 feet to point; thence South 00 degrees 53'33" East, 272.55 feet to a point; thence South 89 degrees 45'20" West, 638.23 feet to a point; thence South 05 degrees 34'25" West, 1054.57 feet to a point in the South line of the said Southwest 1/4 of Section 3; thence South 89 degrees 45'20" West along the South line of the said Southwest 1/4 of Section 3, 1226.07 feet to the point of beginning.

Containing 107.11 acres of land, more or less.

Excepting therefrom those parts described for public street purposes. Lot 20 will not be subject to any of these deed restrictions except as to those contained on the approved preliminary plat and any and all restrictions or regulations which may be required by the Town of Richfield for the approval of the final plat. Lot 20 is not under the control of the owner's association, nor does it have any interest in Outlot 1.

WHEREAS, said WEXFORD HEIGHTS LIMITED PARTNERSHIP, intends to develop and improve the above described lands into building lots and is desirous of maintaining fair and adequate values in the above described lands, and of continuing said lands as a desirable resident area within the Town of Richfield, Washington County.

NOW, THEREFORE, in consideration of the foregoing said Wexford Heights Limited Partnership does hereby impose and charge said lands with the following covenants and restrictions:

1. STRUCTURES PERMITTED - On lots zoned for residential purposes, no structure or structures (including satellite dishes greater than twenty (20) inches in diameter), sheds or accessory buildings, or detached dog houses shall be erected, altered, placed or permitted to remain upon any lot except a residential dwelling and a private garage.

- A. A dog house physically attached to the residence will be considered by the architectural committee and approval, if given, will be based on the plans for the dog house being submitted showing placement, fencing and landscaping in a manner which compliments the residence and subdivision.
- B. Fences will be considered by the architectural committee and approval, if given, will be based on the plans for the fence, including fence material and any related landscaping, being submitted



showing placement in a manner which compliments the residence and subdivision. No fence, wall, hedge or shrub will be permitted on any area embodied within corner triangles (formed by the intersection of two street property lines and the lines joining such lines at points twenty five (25) feet from such intersection) which obstruct sight lines at elevations between two (2) and six (6) feet above the roadways, except that trees may be planted and permitted to remain in such areas as long as the foliage line thereof is maintained at sufficient height to prevent obstructions of such sight lines. Lots 1 and 19 will follow requirements of vision corner as on the plat related to Hillside Road.

- C. One attractive accessory building designed and constructed to resemble the house in style and building materials shall be allowed for storage of recreational vehicles and usual home owner equipment only, said building, its location and its size must be approved by the Architectural Control Committee, and also by the Town if regulated by the Town.
- D. Exterior antennas, satellite dishes greater than twenty (20) inches in diameter and similar devices of all types will be considered by the architectural committee based on the location and placement in a manner which is concealed from street view and shall not be installed without the approval of the Architectural Control Committee and the Town Board if the town regulates them.

2. **ARCHITECTURAL CONTROL** - No structure shall be erected, altered, or placed upon any lot unless and until the building plans, specifications and plot plans showing the location of such structure have been submitted and have been approved, in writing, as to the materials to be used in construction, the conformity and harmony of external design and color of the structure to be erected, with the existing or contemplated structures, and the location of the structure to be erected with respect to lot lines by an Architectural Committee composed of JEROME A. BENICE, JR., BRIAN J. BENICE, and SCOTT J. BENICE, either member of the committee can approve. A duplicate copy of the above plans and specifications as submitted and approved shall be provided for the permanent file of the Architectural Control Committee. The existing structures and uses for Lot #20 will be exempt from strict conformance to these restrictions.

- A. The committee shall have the right to refuse or approve any such plan or specifications which, in the conclusive judgment of a majority of its members, are not in conformity with these restrictions or are not desirable aesthetically, or for any other reasons. In passing upon such plan and specifications, the committee may take into consideration the suitability of the proposed building or other structures, its design, elevation and the materials of which it is to be constructed on the proposed site; the harmony thereof with the surrounding buildings, and the view from the adjacent property. All decisions of the committee on said matter shall be final and binding. The committee shall have the right to waive minor infractions or deviations from these restrictions in case of hardship.
- B. In the event the Architectural Control Committee, or its designated representative, fails to act upon any plans, specification or other written requests for approval within 30 days after submission of all plans, specifications and other documents as may be requested by said committee, the requested approval shall thereby automatically be granted, such that no rights shall thereafter exist to enforce these declarations insofar as any such approval is required hereunder.
- C. Upon request, developer or its duly authorized representative, shall furnish a statement of the name and address of the person(s) to whom plans, specifications and other requests for approval are to be submitted for consideration by said committee, with submission to the person so designated constituting submission to the committee. If developer or its designated representative's shall fail to make the aforementioned designation, submission to developer shall constitute submission of the same to the committee.

In the event of the death or resignation of any members of said committee, the remaining member or members shall have full authority to appoint by majority vote a successor member or members to serve on said committee and, pending such appointment, to approve or disapprove any plans, specifications or plot plan as herein provided. None of the members of such committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this provision.

Upon sale by the Developer of eighty-five percent (85%) of the lots within the subdivision, the authority of the

Architectural Committee shall automatically vest in the lot owners association as they deem appropriate; except that authority for the approval of the building plans, specifications and plat plans as described in the first paragraph of #2 above will remain the authority of the original Architectural Committee. Upon sale of all lots within the subdivision by the Developer, the full authority of the Architectural Committee shall automatically vest in the lot owners association as they deem appropriate.

3. CONSTRUCTION - All structures on any lot in said subdivision shall be enclosed and under roof with the finished exterior materials in place within one (1) year after the commencement of construction.

4. BUILDING LOCATIONS - Setbacks, height restrictions and locations of all structures shall be as regulated by the zoning ordinances of the Town of Richfield (herein referred to as "Town").

5. BUILDING TYPE AND SIZE - All lots in the Subdivision are zoned RS-2 and are restricted to the erection of a one story, story and one-half, two story or split level residence building with an attached two (or more) car garage. All garages shall have a side entrance overhead door unless the Architectural Committee deems it impossible and recommends a front entrance overhead door.

- A. A one-story home shall be a minimum of one thousand nine hundred (1900) square feet.
- B. A story and one-half home shall be a minimum of two thousand two hundred (2200) square feet with a minimum of one thousand one hundred (1100) square feet on the first floor.
- C. A two-story home shall have a minimum of two thousand two hundred (2200) square feet with a minimum of one thousand one hundred (1100) square feet on the first floor.
- D. A split level home shall have a minimum of two thousand two hundred (2200) square feet.
- E. The exterior walls of the residence and attached garage must be constructed of brick, stone, aluminum siding, vinyl siding or wood siding (which includes only solid wood or wood wafer board products of the type and quality of the Interseal lap siding product manufactured by Louisiana-Pacific Corporation on the date hereof).
- F. Any block exposed more than one (1) course above grade must be covered like the above finish to look uniform.
- G. All roofs shall have dimensional roofing and a minimum pitch of eight feet in height for each twelve feet in length (8/12), except for rear dormers on a story and one-half residence and other special circumstances if approved in writing by the Architectural Committee.
- H. Window grids shall be required in the front elevation of the residence with other residences requiring additional window grids as directed by the Architectural Control Committee.

6. SURFACE DRAINAGE AND ELEVATION GRADE - A master surface drainage and house grade plan has been prepared by the Developer designating the manner in which each lot shall drain in relation to all other lots in the Subdivision and designating the grade elevation of the dwelling to be constructed thereon. A copy of this plan is on file in the office of the Developer and in the office of the Town Engineer and Building Inspector. No deviation therefrom shall be permitted without the approval of the Town and the Developer. Within sixty (60) days after completion of a dwelling on any lot in the Subdivision the owner of said dwelling shall grade the lot to conform to said drainage plan and from that time forward nothing shall be done which will alter the plan or impede or obstruct the flow of surface drainage water in accordance with the plan. Water should flow to designated drainage swales and ditches and not in a manner that would threaten adjacent properties. All grading must conform to the Master Grading Plan.

7. GARAGES - All garages shall be built at the same time as the private dwelling and shall be large enough to accommodate a minimum of two (2) cars but not more than four (4) cars. All garages shall have a side entrance overhead door unless the architectural committee deems it impossible and recommends a front entrance overhead door. Absolutely no boat, camper trailer, mobile home, vehicle licensed as a truck, extra cars, or trailers of any kind may be parked on any lot outside of the garage or within the Subdivision perimeter for more than seventy-two (72) hours except for trucks delivering materials or merchandise or used during construction or remodeling periods. Whereas the keeping of a motorcycle, snowmobile, minibike, or recreational vehicle is allowed, the use of them is PROHIBITED on any lot, driveway, parking area, or open space within the Subdivision. The intention herein is that they shall be expressly limited

to only the road areas for the sole purpose of entering and/or leaving the Subdivision for necessary travel (as contrasted with recreational use).

8. NUISANCES - No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Trash, garbage or other waste shall not be kept except in sanitary containers which shall be properly screened from public view. No building may be occupied until it has been substantially completed in accordance with the plans and specifications submitted to and approved by Developer and an occupancy permit obtained from the Town.

9. EXTERIOR DEVICES- All air conditioners, solar heating units, windpower and similar devices shall be concealed from street view and be located in a manner approved by the Architectural Control Committee.

10. SWIMMING POOLS/FENCES - Swimming pools are permitted if they meet Town ordinances and specifications, and plans for said pools are approved by the Architectural Committee, which plans shall denote design, offsets, landscape treatment and fencing proposed.

11. ELECTRIC YARD LIGHTS - For purposes of safety, each property owner is required to install a decorative electric yard light that complements the house electric fixtures on each platted residential lot. Each light shall be placed approximately twenty five (25) feet from the street lot line and approximately five (5) feet off the driveway. The light should be photocell activated and not restricted by an electric switch. The yard light should be installed prior to occupancy.

12. LANDSCAPING/DRIVEWAYS - Lots shall be landscaped and seeded or sodded within one (1) year after completion of a dwelling thereon. Landscaping shall include the area between the front lot line and the edge of the street pavement. Landscaping must include a drive which shall be hard surfaced material. No permanent gravel drive will be permitted. The hard surface of concrete, asphalt or similar material shall be installed within two (2) years from the date the premises are completed. In the event that lot owner shall construct a concrete drive, the owner must construct a hot mix asphalt approach to the Town right-of-way which is normally thirty three (33) feet from the centerline of the Town Road.

13. ENFORCEMENT - The restrictions and covenants contained herein may be enforced by any lot owner by proceedings at law or in equity against any person or persons violating or attempting to violate the same. The proceeding may seek to recover damages and/or demand compliance, provided however, that no actions shall be commenced after one (1) year from the date on which the violation first occurred.

14. TELEPHONE AND ELECTRIC SERVICE - All telephone and electric service to any building on any lot shall be underground from the underground utilities system. If Wisconsin Electric has overhead distribution facilities abutting any lots in this subdivision, either now or in the future, and a service is requested within 120 feet of the overhead facilities, there will be a charge to the lot owner for underground service.

15. TERM - These restrictions shall run with the land and shall be binding upon all parties and persons having any interest in the land affected hereby for a period of twenty-five (25) years from the date of this Declaration of Restrictions is recorded, unless an amendment extending or reducing the term hereof is recorded prior to the expiration of such period.

16. SEVERABILITY - Invalidity of any provision of this Declaration, regardless of how determined, shall in no way affect any of the other provisions, which shall remain in full force and effect.

17. AMENDMENTS TO DECLARATION - This declaration may be annulled, waived, changed, modified or amended at any time by written Declaration setting forth said change, executed by the owners of at least sixty (60) percent of the lots in the Subdivision (sixty (60) percent of the votes in the association); provided, however, that any such action must also be approved in writing by (i) the Town, and (ii) the Developer so long as the Developer owns any parcel or lot in the Subdivision. This Declaration and all amendments shall be executed as required by law so as to entitle it to be recorded, and shall become effective only upon due recording with the office of the Register of Deeds for Washington County, Wisconsin.

18. FUTURE SUBDIVISION LOTS - There shall be no future division of subdivision of lots on this plat without the approval of the Plan Commission of the Town.

19. CONFLICTS BETWEEN RESTRICTIONS AND ZONING OR BUILDING REGULATIONS- In the event of any conflict between these restrictions and the Town's zoning and building regulations, the stricter provisions shall apply.

20. OCCUPANCY - No residence shall be occupied prior to the completion of the exterior surfacing of said dwelling and the lot finished to rough grade. All grading must conform to the Master Grading Plan.
21. SIGNS - No sign of any kind shall be displayed to the public view on any lot, except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.
22. ANIMALS - No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose, nor exceed three (3) in number.
23. WASTE DISPOSAL - No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers.
24. TEMPORARY STRUCTURES - No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out buildings shall be used on any lot at any time as a residence, either temporarily or permanently.
25. MAILBOX - All homeowners shall install a uniform mailbox and post. The approved uniform selection is as follows:
- |    |                |   |
|----|----------------|---|
| A. | Mailbox -      | Box is Model #1-CB1K<br>Cedar Box Cover is Model #CMC10 |
| B. | Mailbox Post - | Model SP#10<br>Cedar Post                               |
- The stock numbers are from Fleet Farm in Germantown, WI. The selections can be purchased elsewhere provided they are an approved equal box and post in appearance to the selection described above.
26. ELEVATED TANKS - No elevated tanks of any kind shall be erected, placed, or permitted on any part of such premises. Any tanks for use in connection with any residence constructed on such premises; including tank for the storage of fuels, must be buried in accordance with Town, Country, State and Federal regulations.
27. RESERVATION OF ASSESSMENT RIGHTS - Should the Town determine that deficiencies exist under paragraphs 6 and 29 and that the public interest requires compliance, the Town shall give notice of the deficiencies to the lot owner. The lot owner shall have the time specified in the notice to rectify deficiencies and if the deficiencies are not rectified within the time period, the Town shall have the right to enter upon such property using its own employees and equipment or contracting with others for such work to rectify the conditions. The cost of such work or services shall be billed to the lot owner. The Town shall have the right to enforce collection of such amounts by extending the same on the current or next succeeding tax roll as an unpaid special charge in accordance with Section 66.60(16) of the Wisconsin Statutes against the responsible lot owner. The undersigned Owners, for themselves, their successors and assigns, do hereby consent to the levying of such special charges and hereby waive any and all notices and hearings which might otherwise be required by state statutes for the levying of special charges.
28. DRIVEWAY PRESENTATION - The following lots cannot have driveway access on Wexford Drive and must access on adjacent streets: Lots 1 and 19.
29. DRAINAGE EASEMENT PROTECTION - Lot owners are responsible to maintain all private drainage easements adjacent to their property at the approved grades and free of obstructions which may impede the flow of storm water. Adjacent lot owners may not alter the approved grade of or place any obstruction within a private storm water drainage easement. This includes the drainage easement between lots 13 and 14 and the drainage easement at the rear of lots 14, 15 and 16. If not maintained by property owners, cost to maintain could be levied in accordance with paragraph 27.
30. OUTLOT MAINTENANCE - Outlot 1 contains a detention basin and offers open space set aside for density calculations. It is restricted from future development or division. Each of the twenty nine (29) lot owners (Lots 1 through 19 and 21 through 30) will own a 1/29th undivided interest in outlot 1, regardless of whether the said interest appears on the face of the deed. Lot 20 does not have any undivided interest in the outlot and is not responsible for any share of the maintenance. The outlot ownership interest shall be appertenant to ownership of the lot and may not be transferred separately from the lot to which it pertains. Thus, each lot owner will be responsible for 1/29th of the maintenance which will be handled through the owner's association described below.

31. COMMON AREA MAINTENANCE - Proper landscaping, including landscaping of all entrances, boulevards, traffic islands, and Outlot 1 is a mutual benefit of present and future Owners. Landscaping of these areas shall be properly maintained at all times by the Owners or by the Owner's Association described below. On lots 1, 2 and 19 the lot owner will be responsible for maintaining the landscaping at the entrance areas installed by the developer on their respective lots as designated by the Planting and Sign Easement whose purpose was to create and preserve areas for entrance signs and landscaping. These lot owners grant permission to the association or developer for additional landscaping to be installed if needed. Owners of lots 13 and 14 will be responsible for maintaining the Pedestrian Easement between lots 13 and 14. The Pedestrian Easement is for the purpose of creating and providing access to Outlot 1. Should the Owners or Association fail to maintain the landscaping as required herein, the Town may take remedial steps and assess a special charge as described in Paragraph 33 below. Any maintenance required for Outlot 1 will be the responsibility of the Owner's Association described below.

32. RESTRICTION VIOLATIONS - Any Owner violating the restrictions contained herein shall be personally liable for and shall reimburse Developer and the Association for all costs and expenses, including attorney's fees, incurred by Developer or the Association in enforcing the restrictions contained in this Declaration. The foregoing shall be in addition to any other rights or remedies which may be available to Developer.

33. TOWN ENFORCEMENT - In the event the Town determines that Common Area landscaping is not being maintained in accordance with this Declaration and that the public interest requires compliance, the Town may ensure compliance in the manner described below by taking action and levying charges against the Association or the Owner.

Should the Town determine that deficiencies under these exist and that public interest requires compliance, the Town shall give written notice of the deficiencies to the Association (where applicable) or the Owner (where applicable). The Association or the Owner shall have the time specified in the notice to rectify deficiencies and if the deficiencies are not rectified within the time period, the Town shall have the right to enter upon such property using its own employees and equipment or contracting with others for such work to rectify the conditions. The cost of such work or services shall be billed to the Association (where applicable) or to the Owner (where applicable). The Town shall have the right to enforce collection of such amounts by extending the same on the current or next succeeding tax roll as an unpaid special charge in accordance with Section 66.60(16) of the Wisconsin Statutes against all Owners (where applicable) or against the responsible Owner (where applicable). The Owners do hereby consent to the levying of such special charges and hereby waive any and all notices and hearings which might otherwise be required by state statutes for the levying of special charges.

34. FUTURE STAGES OF DEVELOPMENT OF WEXFORD HEIGHTS - The Developer, its successors and assigns shall have the right to bring within this Declaration future stages of the development of Wexford Heights, provided such future stages are or become adjacent to the real estate which is or becomes subject to this Declaration or any supplemental declaration. The future stages authorized under this Section shall be added by recording a Supplemental Declaration of Restrictions with respect to the future stages which shall extend the provisions of this Declaration to such future stages and indicate any provisions which differ from the provisions of this Declaration or any prior Supplemental Declaration. Except with respect to increasing the number of Owners and adding to the Common Area, such Supplemental Declarations shall not revoke, modify or add to the covenants established by this Declaration or any prior Supplemental Declaration. If future stages are added to these restrictions, all lot owners (both existing lots under the this declaration of restrictions and any lots added by a future stage) would have an undivided fractional interest (the denominator of which shall be the total number of lots platted) in the outlots and common areas and be responsible for that same fractional share of the cost to maintain the outlots and common areas.

#### **OWNERS ASSOCIATION**

1. An association incorporated as a non-stock Corporation with the Wisconsin Secretary of State's office and the Articles of Incorporation recorded with the Office of the Register of Deeds for Washington County, Wisconsin (herein referred to as the "Association") of the owners of land in Wexford Heights (herein referred to individually as "Owner" and collectively as "Owners"), is hereby created for purposes of managing and controlling subdivision Common Areas (as defined below) and performing other duties as set forth herein for the common benefit of the Owners. The Association shall be known as "Wexford Heights Lot Owners Association, Inc." and per article 2 of the Articles of Incorporation the association shall have perpetual existence.

2. The term "Common Area" shall include the following areas, plus any additional areas which may be added in accordance with Paragraph #34 of the Declaration of Restrictions above.

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- (a) Outlot 1
- (b) Drainage Easements
- (c) Pedestrian Easement
- (d) Planting and Sign Easement

3. The Association shall be governed by a Committee consisting of a minimum of three members and maximum of five members, hereinafter referred to as the "Committee" which shall be solely responsible for the activities of the Association. The initial members of the Committee shall be Jerome A. Bence, Jr., Scott J. Bence and Brian J. Bence.

4. To qualify as a member of the Committee, a person must be either an Owner or a duly designated partner, member or officer of a partnership, limited liability company or corporate owner or the personal representative, heir, assign or attorney-in-fact of an individual owner.

5. So long as fifteen percent (15%) or more of the lots in Wexford Heights are owned by Developer, all three members of the Committee shall be appointed by Developer. Once eighty-five percent (85%) of the lots have been sold, notice will be given via regular mail to the current lot owners of Wexford Heights at the addresses on record that control of the Owners Association is being turned over by the Developer to the lot owners. At that time the current owners shall hold a meeting to elect the new members of the committee to govern the association. Their initial terms of office shall be per the provisions of paragraph #7 below. The provisions of this paragraph shall also apply in the event of any future stages of development in accordance with Paragraph #34 of the Declaration of Restriction above and the lots contained therein shall be considered in determining the above percentages.

6. Each Owner shall be entitled to vote in person or by proxy in elections for selecting members of the Committee. Owners shall have one vote for each lot owned.

7. The term of office of the initial members of the Committee shall commence upon the execution hereof and shall continue until the owners association is turned over to the lot owners as outlined in paragraph #5 above. Thereafter, the term of office of members of the Committee shall be for staggered three year terms. At the time of the first election, three members will be elected, one for a one year term, one for a two year term and one for a three year term. Each subsequent year thereafter, one new member will be elected for a three year term. If any member of the Committee shall die, resign, be unable to act or cease to be qualified to be a member, the unexpired term of such member shall be filled by a special election, (or appointment by Developer, if applicable, pursuant to the terms of Paragraph 5 above).

8. All meetings of the Committee shall be open to Owners and held upon not less than three days prior written notice to all of the Owners. Two members of the Committee shall constitute a quorum if the committee has three members and three members of the Committee shall constitute a quorum if the committee has four or five members. Actions of the Committee shall be taken by majority vote.

9. The Committee shall have the following duties:

- (a) To provide for the maintenance of improvements in the Common Area, unless designated to be maintained by specific Lot Owners in the deed restrictions. Regardless of who is responsible to maintain, any capital repairs beyond normal maintenance items would be cared for by the association;
- (b) To review and approve plans, specifications and other written requests submitted for Architectural committee for items requiring such approval per these deed restrictions and enforce such restrictions.
- (c) To establish dates and procedures for the election of members of the Committee;
- (d) To promulgate operating procedures for the conduct of the Association and Committee's affairs.

10. The Committee shall have the following powers:

- (a) To take such action as may be necessary to cause the Common Area to be maintained, repaired, landscaped (where appropriate) and kept in good, clean and attractive condition;



- (b) To enter into contracts and to employ agents, attorneys, or others for purposes of discharging its duties and responsibilities hereunder; and
- (c) To levy and collect assessments in accordance with the provisions of Paragraph 11 below.
- (d) To create committees, including but not limited to, an Architectural Control Committee which shall have the functions as are set forth in these deed restrictions.

11. The Committee shall levy and collect assessments in accordance with the following:

(a) The Owner of each lot shall be subject to a general annual charge or assessment equal to his pro rata share of the costs incurred or anticipated to be incurred by the Association in performing its duties and discharging its obligations. The pro rata share of an Owner of a lot shall be a fraction, the numerator of which shall be one and the denominator of which shall be the total number of lots subject to this Declaration (including added future stages) at the time of the assessment. Said costs shall include, but not be limited to: taxes; insurance; repair, replacement and additions to the improvements made to the Common Area; equipment; materials; labor, management and supervision thereof; and all costs for the Association reasonably incurred in conducting its affairs and enforcing the provisions of this Owner's Association.

(1) Assessments by a Lot Owner become due and payable upon acceptance or delivery of a deed by a Purchaser which conveys any lot in the development. For any partial year, the amount of the annual assessment owed by a Lot Owner shall be based upon said annual assessment divided by 365 and multiplied by the number of days remaining in the year to which said annual assessment applies.

(2) The amount of the annual assessment shall be obtained by equal assessments against the Owner of each Lot. Subsequent to the first conveyance of a Lot by the Developer to a Purchaser, Developer shall have the option of either paying annual assessments to the Association for each Lot owned by Developer on the same basis as any other Lot owner; or paying to the Association the difference between the aggregate amount of the annual assessments assessed against all Lot Owners (including Developer) and the actual annual expenses incurred by the Association; provided, however, that Developer may make payments into the reserve accounts established by the Association for each Lot owned by the Developer on the same basis as all other Lot Owners

- (b) Assessments shall be approved at a duly convened meeting of the Committee.
- (c) Written notice of an assessment shall be personally delivered to each Owner subject to the assessment or delivered by regular mail addressed to the last known address of such Owner.
- (d) Assessments shall become due and payable 30 days after the mailing or personal delivery of the notice, as the case may be.
- (e) Assessments not paid when due shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid, and such unpaid assessments and the interest thereon shall constitute a continuing lien on the real estate against which it was assessed until they have been paid in full. The assessments and interest thereon shall also be the personal obligation of any current or subsequent Owner of the lot against which the assessment was made.
- (f) The Committee may record a document with the Register of Deeds in Washington County, Wisconsin, giving notice of a lien for any such unpaid assessment and upon payment or satisfaction of the amount due record a document canceling or releasing any such lien. The failure to file any such notice shall not impair the validity of the lien. All recording and attorney fees relating to any such document shall be borne by the affected Owner.
- (g) Upon application by any Owner, any member of the Committee may, without calling a meeting of the Committee, provide to such Owner a statement in recordable form certifying (1) that the signer is a duly elected or appointed member of the Committee and (2) as to the

existence of any unpaid assessments or other amounts due to the Association. Such statement shall be binding upon the Committee and shall be conclusive evidence to any party relying thereon of the payment of any and all outstanding assessments or other amounts due to the Association.

(h) Any lien for assessment may be foreclosed by a suit brought by the Committee, acting on behalf of the Association, in a like manner as the foreclosure of a mortgage on real property.

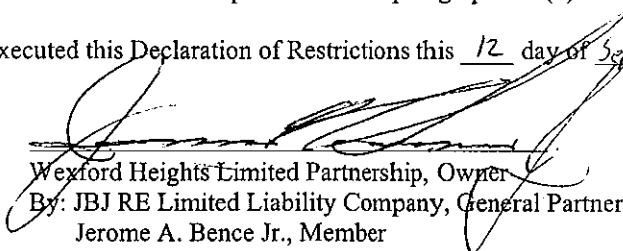
12. Members of the Committee shall not be liable for any action taken by them in good faith in discharging their duties hereunder, even if such action involved a mistaken judgment or negligence by the member or agents or employees of the Committee. The Association shall indemnify and hold the members of the Committee harmless from and against any and all costs or expenses, including reasonable attorney's fees, in connection with any suit or other action relating to the performance of their duties hereunder.

13. Failure of the Association or the Committee to enforce any provisions contained in this document, upon the violation thereof, shall not be deemed to be a waiver of the rights to do so, or an acquiescence in any subsequent violation.

14. The Developer shall have the sole right to initially enforce the provisions of this declaration by proceedings at law and/or in equity to restrain and/or recover damages for any violation or threatened violation of any provision hereof. If any lot owner shall file a written petition with the developer for commencement of legal proceedings to restrain and/or recover damages for any violation or threatened violation of this declaration and developer thereafter fails to act upon or refuses to act in accordance with such petition within a period of 30 days after filing, then such lot owner may commence any action or proceeding within a period of six months after filing such petition to restrain and/or to recover damages for any violation or threatened violation of this declaration as described in such petition.

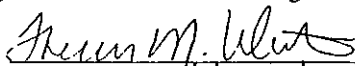
15. If the Committee shall fail to discharge its duties under this document within 60 days of written demand by the Town, the Town may discharge the duties of the Committee. The costs of the Town incurred in connection therewith shall be charged to the Owners by adding to each Owner's real estate tax statement a charge equal to such Owner's pro rata share (the same as such Owner's share of annual assessments as provided in subparagraph 11 (a) above) of such costs.

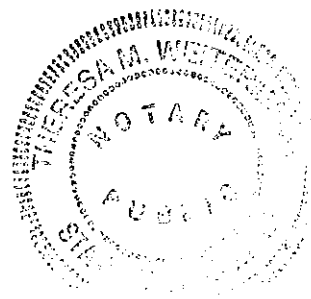
In witness whereof, the undersigned has executed this Declaration of Restrictions this 12 day of September, 1997.

  
Wexford Heights Limited Partnership, Owner  
By: JBJ RE Limited Liability Company, General Partner  
Jerome A. Bence Jr., Member

State of Wisconsin        )  
  ) SS.  
County of Washington    )

Personally came before me this 12 day of September, 1997, the above named Jerome A. Bence Jr. to me know to be the person who executed the foregoing instrument and acknowledge the same.

  
Notary Public, Washington County, WI  
My commission expires 6-11-00



FILES\WEXFORD\DEEDREST

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JUL 07 1997

RECEIVED - DEPT OF  
FINANCIAL INSTITUTIONS  
STATE OF WISCONSIN

RECORDED

97 JUN 5 P 1: 05

JUN 23 9 00 AM '97

*Dorothy C. Hennings*  
REGISTER OF DEEDS  
OF THE STATE OF WISCONSIN

ARTICLES OF INCORPORATION

OF

WEXFORD HEIGHTS LOT OWNERS ASSOCIATION, INC.

Executed by the undersigned for the purpose of forming a Wisconsin corporation under Chapter 181 of the Wisconsin Statutes, WITHOUT STOCK AND NOT FOR PROFIT.

The undersigned, being an adult resident of the State of Wisconsin acting as incorporator under the Wisconsin Nonstock Corporation Law, Chapter 181 of Wisconsin Statutes, adopts the following Articles of Incorporation:

ARTICLE 1

Name

The name of the Association is WEXFORD HEIGHTS LOT OWNERS ASSOCIATION, INC.

ARTICLE 2

Period of Existence

The period of existence shall be perpetual.

ARTICLE 3

Definitions

The Undersigned hereby adopts and incorporates herein by reference as though fully set forth herein at length, the "Definitions" as set forth in Section 703.02, Wis. Stats. (1993-94).

ARTICLE 4

Purposes

The purposes shall be, among others, as follows:

- (a) To provide for maintenance, preservation and architectural control of the Common Elements within that certain tract of property located in the Town of Richfield; WASHINGTON COUNTY, Wisconsin and

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specifically described in Exhibit A attached hereto and incorporated herein; and to promote the health, safety and welfare of the lot owners of within said development;

- (b) To fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of the Declaration of Restrictions for Wexford Heights Subdivision; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
- (c) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, rent, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- (d) To exercise all of the powers and privileges and to perform all of the duties and obligations of this Association as set forth in said Declaration of Restrictions for Wexford Heights Subdivision which is to be recorded in the office of the Register of Deeds for WASHINGTON County, Wisconsin;
- (e) To serve as an association of those owning lots and constructing improvements on said lots as provided and allowed by the municipal and zoning ordinances for the Town of Richfield and under the laws of the State of Wisconsin and subject to the terms and conditions of the Declaration of Restrictions for Wexford Heights Subdivision, as recorded in the Office of the Register of Deeds for WASHINGTON County, Wisconsin (hereinafter referred to as "Declaration");
- (f) To engage in lawful activity within the purposes for which a nonstock, non-profit corporation may be organized and to have and to exercise any and all powers, rights and privileges a Wisconsin nonstock, non-profit corporation may now or hereafter have or exercise, all under Chapter 181, Wis. Stats.

#### ARTICLE 5

##### Members

The corporation shall initially have two classes of voting membership. The designation of such classes, and the respective rights and qualifications of the two classes of membership shall be as set forth in the By-Laws of the corporation. The corporation may, as set forth in the By-Laws of the corporation, issue certificates evidencing membership in the corporation.

Every Owner of a lot shall be entitled and required to be a member of the Association. If title to a lot is held by more than one person, each of such persons shall be members. An Owner of more than one lot shall be entitled to one

membership for each such lot owned. Each such membership shall be appurtenant to the lot upon which it is based and shall be transferred automatically by conveyance of that lot. No person or entity other than an Owner of a lot or Developer may be a member of the Association, and membership in the Association may not be transferred except in connection with the transfer of title to a lot; provided, however, that the rights of voting may be assigned to a Mortgagee as further security for a loan secured by a mortgage on a lot.

## ARTICLE 6

Powers

The corporation shall have all of the powers of a nonstock corporation as presently enumerated in the Wisconsin Nonstock Corporation Law, Chapter 181 of the Wisconsin Statutes and all powers of an association formed for the general purpose of governing the affairs of Lot Owners of Wexford Heights Subdivision.

## ARTICLE 7

Principal Office and Registered Agent

The location of the initial principal office of the corporation shall be W182 N9606 Appleton Avenue; Germantown, WASHINGTON COUNTY, Wisconsin, <sup>53022</sup> and the initial registered agent at such address shall be Scott J. Bence. ~~The mailing address for such registered agent at such initial principal office is P.O. Box 264, Menomonee Falls, WI 53051.~~

## ARTICLE 8

Directors

The number of Directors of the corporation shall be as fixed in the By-Laws but in no event shall be less than three (3), who need not be members of the Association. The manner in which directors shall be elected, appointed or removed shall be provided in the By-Laws.

## ARTICLE 9

Names and address of initial Board of Directors

Scott J. Bence  
N82 W28295 Vista Dr.  
Hartland, WI 53029

Theresa Weitermann  
N76 W16277 Brian Ct.  
Menomonee Falls, WI 53051

Brian J. Bence  
N76 W28682 Park Drive  
Hartland, WI 53029

~~749564~~

## ARTICLE 10

Voting Rights

All Owners of a Lot shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot. Vote shall not be cast as split or fractional votes. Prior to the time of any meeting at which a vote is to be taken, all co-owners shall file the name of the voting co-owner with the Secretary of the Association in order to be entitled to a vote at such meeting, unless such co-owners have filed a general voting authority with the Secretary applicable to all votes until rescinded.

The Developer shall be entitled to one (1) vote for each Lot owned; provided, however, that notwithstanding the foregoing provisions for voting, the Developer shall have sufficient votes to constitute a majority of votes until 25 Lots are sold, at which time, Developer's control shall cease.

## ARTICLE 11

Stock, Dividends, Dissolution

The Association may be dissolved with the assent of seventy-five percent (75%) of the votes as provided in "Voting Rights" above. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

The corporation shall not have or issue shares of stock, no dividend shall ever be paid to members of the Association, and no part of the assets or surplus of the corporation shall be distributed to its members, directors or officers, except upon dissolution of the corporation. The corporation may pay compensation in reasonable amounts to employees, members, directors or officers for services rendered, except as limited in the By-Laws, and may confer benefits upon its members in conformity with its purpose.

## ARTICLE 12

Amendment

These articles may be amended in the manner authorized by the By-Laws at the time of amendment.

ARTICLE 13

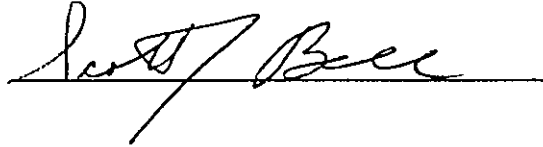
Name and Address of Incorporator

The name and address of the incorporator is:

NAME	ADDRESS (street & number, city, state and ZIP Code)
Scott J. Bence	N82 W28295 Vista Drive Hartland, WI 53029

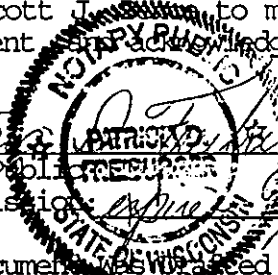
Executed in duplicate on the 3rd day of June, 1997.

All incorporators  
SIGN HERE



STATE OF WISCONSIN    )  
                                   ) SS.  
 WAUKESHA COUNTY     )

Personally came before me this 3rd day of June A.D. 1997, the above-named Scott J. Bence to me known to be the person who executed the foregoing instrument and acknowledged the same.

 (SEAL)  
 Notary Public  
 My Commission Expires 5/28/2000

STATE OF WISCONSIN  
 FILED  
 JUN 18 1997  
 DEPARTMENT OF  
 FINANCIAL INSTITUTIONS

This Document Was Witnessed By  
And Should Be Returned To:

LADWIG and RECHLICZ  
 Attorney Richard A. Rechlicz  
 N88 W15125 Main Street  
 Menomonee Falls, WI 53051  
 (414) 251-2245

Exhibit A

Legal Description

"WEXFORD HEIGHTS", being a subdivision of a part of the Northwest 1/4, Northeast 1/4, Southeast 1/4 and Southwest 1/4 of Section 3, Town 9 North, Range 19 East, in the Town of Richfield, Washington County, Wisconsin, being more particularly bounded and described as follows:

Commencing at the Southwest corner of the Southwest 1/4 of Section 3, said point also being the place of beginning of the lands hereinafter described:

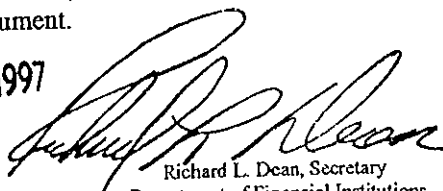
Running thence North 00 degrees 44'52" West along the West line of said Southwest 1/4 Section, 1519.40 feet to the Southwest corner of Certified Survey Map No. 2363; thence North 89 degrees 15'08" East along the South line of the said Certified Survey Map No. 2363, 360.00 feet to a point in the Southeast corner of said Certified Survey Map No. 2363; thence North 00 degrees 44'52" West along the East line of said Certified Map No. 2363, 200.00 feet to a point in the North line of said Certified Survey Map No. 2363; thence South 89 degrees 15'08" West along the North line of said Certified Survey Map No. 2363, 360.00 feet to a point in the West line of said Section 3; thence North 00 degrees 44'52" West along the West line of said Section 3, 715.90 feet to a point in the Southwest corner of Certified Survey Map No. 1370; thence North 89 degrees 45'26" East along the South line of Certified Survey Map No. 1370, 360.00 feet to a point in the Southeast corner of said Certified Survey Map No. 1370; thence North 00 degrees 44'52" West along the East line of Certified Survey Map No. 1370, 200.00 feet to a point 16.50 feet South of the North line of the said Southwest 1/4 of Section 3; thence North 89 degrees 45'26" East along a line 16.50 feet South and parallel to the North line of the Southwest 1/4 of said Section 3, 959.69 feet to a point; thence South 04 degrees 46'32" West, 7.95 feet to a point in the South line of a 33 foot easement for ingress and egress; thence South 66 degrees 44'34" East along the South line of said 33 foot easement, 390.56 feet to a point; thence South 76 degrees 19'34" East along the South line of said 33 foot easement, 241.87 feet to a point in the West line of Certified Survey Map No. 4312; thence South 14 degrees 26'32" West along the West line of Certified Survey Map No. 4312, 178.50 feet to a point; thence South 11 degrees 47'45" East along the West line of Certified Survey Map No. 4312, 190.92 feet to a point in the Southwest corner of Certified Survey Map No. 43.12; thence South 83 degrees 28'41" East along the South line of Certified Survey Map No. 4312, 740.84 feet to the East line of the said Southwest 1/4 of Section 3; thence South 00 degrees 53'33" East along the East line of the said Southwest 1/4 of Section 3, 643.55 feet to a point; thence South 89 degrees 39'22" West, 656.00 feet to point; thence South 00 degrees 53'33" East, 272.55 feet to a point; thence South 89 degrees 45'20" West, 638.23 feet to a point; thence South 05 degrees 34'25" West, 1054.57 feet to a point in the South line of the said Southwest 1/4 of Section 3; thence South 89 degrees 45'20" West along the South line of the said Southwest 1/4 of Section 3, 1226.07 feet to the point of beginning.

Containing 107.11 acres of land, more or less.

I CERTIFY that the attached copy has been compared by me with a document on file with this Department and that it is a true copy thereof, and that I am the legal custodian of said document.

DATE: JUN 20 1997

BY: JLW

  
Richard L. Dean, Secretary  
Department of Financial Institutions  
STATE OF WISCONSIN