

DECLARATION OF RESTRICTIONS OF ELMWOOD HIGHLAND ESTATES

This Declaration is made this _____ day of _____, 2022, by (hereinafter called Developer).

RECITATIONS

WHEREAS, Elmwood Highland Estates, LLC, a Wisconsin limited liability company, as Developer, owns all those lands more particularly described on attached Exhibit "A" herein; and,

WHEREAS, the Developer desires to subject the lands within the development to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, for the benefit of the development as a whole and for the benefit of each lot owner.

DECLARATION

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

GENERAL PURPOSE

The general purpose of this Declaration is to ensure the best use and most appropriate development and improvement of each lot thereof; to protect owners of lots against such use of surrounding lots as will detract from the residential value of their property; to preserve, as far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or poorly proportioned structures; to obtain harmonious use of material and color scheme; to encourage and secure the erection of attractive homes thereon with appropriate locations thereof on lots to prevent haphazard and inharmonious improvement of building sites; to secure and maintain proper setbacks from street and adequate free spaces between structures and, in general, to provide adequately for a high quality of improvement on all property, and thereby to preserve and enhance the values of investments made by purchasers of building sites therein. Developer makes no assurance that the stated intentions shall result in stability or increase in value of a lot in the subdivision.

SINGLE FAMILY USE: GENERAL RESTRICTIONS

- A. Each lot shall be used solely and exclusively 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 home site as a place of residence and limited recreation.

- B. Only one home may be constructed on each lot and no garage, house trailer, recreational vehicle or other improvement (except for the home) shall be used for temporary or permanent living or sleeping for the family or guests without the prior approval of the Architectural Control Board, hereinafter referred to as Board.
- C. Each lot shall be maintained by the lot owner so as to be neat in appearance when viewed from any street or other lot.
- D. No lot shall be used in whole or in part for conducting any unlawful activity or for any unlawful purpose.
- E. No soil shall be removed from any lot in the development without the prior consent of the Board. Any excess soil resulting from excavations shall be transported, at the buyer's expense, to such other places in the development or on Developer's property as may be designated by the Board.
- F. **Government Restrictions.** The Developer, its successors and assigns, and all parties hereafter having an interest in the property, are subject to all rules, code, regulations and ordinances of the Village of Richfield, Washington County, the State of Wisconsin and the federal government, and the same may be more restrictive than these Restrictions. In the event there is a conflict between the requirements of these Restrictions and any provision of any Village, County, State or federal law or regulation, the more restrictive provisions shall apply.

USE AND MAINTENANCE OF COMMON AREAS

Any signs, monuments or structures constructed by the Developer or the Association shall be properly maintained by the Association hereafter. Any Common Areas set aside or developed by the Developer or the Association shall be properly maintained by the Association as required by the Village of Richfield and the Final Plat. When maintenance is required, the Association shall perform the same and any cost in maintaining the same shall be assessed against each lot owner in the development. Each lot owner shall be assessed a fee equal to 1/30th of the total cost incurred by the Association in maintaining these. Such improvement costs shall include, but not be limited to, taxes, if any; insurance; repair, replacement and addition to the improvements made to common areas; equipment, materials, labor, management and supervision thereon; and all costs the Association reasonably incurred in conducting its affairs and enforcing the provisions of this Declaration. Each lot owner shall pay in full his portion of the assessed fee within 30 days after receipt of notice of the same. The Association may enforce payment of the assessed fees by the filing of a lien and/or suit to collect any fee assessed for maintenance of the above. Assessment shall be approved by a duly convened meeting of the Association and the Association shall be represented by a three member Board of Directors (sometimes referred to as Directors). The

Developer shall appoint the initial Board members of the Association. After the Developer has conveyed 100 percent of the lots in the development, the lot owners in the Association shall appoint the three members of the Board of Directors. Two members of the Board of Directors shall constitute a quorum and any action by the Board of Directors shall be taken by majority vote. The Board of Directors shall have the direct responsibility to provide for the maintenance of improvements in the common areas, establish dates and procedures for election of members and to promulgate operating procedures for the conduct of the Board of Directors and to enforce the provisions of this Declaration.

Assessments shall be approved by a duly convened meeting of the Board of Directors. Notice of an assessment shall be personally delivered to each owner subject to the assessment or delivered by regular mail to the last known address of such owner. Assessments not paid when due shall bear interest at the rate of twelve percent (12%) per annum from the date due until paid. Members of the Board of Directors shall not be liable for any action taken by them in good faith in discharging their duties hereunder, even if such action involves a mistake in judgment or negligence by the member, agents or employees of the Board of Directors. The Association shall indemnify and hold the members of the Board of Directors harmless from and against all costs and expenses in connection with any suit or other action relating to the performance of their duties hereunder. The members of the Board of Directors shall not be entitled to any compensation for the services of such members. If a lot owner is delinquent in the payment of charges, assessment and special assessments charged or levied against his or her lot, he or she shall not be entitled to vote until all such charges and assessments have been paid. Members may vote in person or by proxy.

RESTRICTIONS ON USE OF RECREATIONAL VEHICLES

Recreational vehicles shall not be parked, kept or stored on any common area or undeveloped area of the development nor shall any such recreational vehicle be parked, kept or stored on any lot outside an enclosed garage, without the prior approval of the Architectural Control Board (which may be withheld for any reason including, but not limited to, aesthetics). Further, recreational vehicles shall not be used or operated on any lot or otherwise within the development except on dedicated streets in accordance with applicable traffic laws.

ANIMALS AND PETS

No animals, horses, livestock or poultry of any kind shall be raised, bred or kept on any lot except two dogs, two cats and other such household pets, provided that they are not kept, bred or maintained for a commercial purpose nor in any unreasonable number.

GARBAGE, REFUSE AND NOISE

No lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any lot that will emit foul or obnoxious odor; or that will cause any noise that

will or might disturb the peace, quiet, conform or serenity of the occupants of surrounding property. Outside incinerators are not permitted.

CONSTRUCTION OF IMPROVEMENTS

MINIMUM LIVING AREA AND OTHER REQUIREMENTS

- A. Each singlestory home shall have a minimum living area (exclusive of basement, attic, garage, porches, and patios) of not less than 2200 square feet.
- B. Each twostory home shall have a minimum living area (exclusive of basement, attic, garage, porches, and patios) of not less than 2500 square feet, with a minimum of 1400 square feet on the first floor.
- C. The Board shall have the exclusive right to determine whether such requirements will be satisfied and any decision of the Board shall be final and conclusive. The Board shall have the right but not the obligation to require homes to be larger than the minimum size.
- D. Each home shall have an attached, enclosed garage for minimum of two automobiles. The garage 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. Additional detached two-car garage may be approved by the Board.
- E. The exterior of all structures shall be constructed of brick, stone, cedar, stucco or other approved natural material (including man made) or a combination thereof. In no event shall the exterior of any structure consist of metal or vinyl siding. Notwithstanding anything to the contrary contained in this paragraph, comparable or superior construction materials may be substituted if said substituted materials are approved in writing by the Board.
- F. Masonry walls on the exterior of the home should not end at a corner but instead, should abut another wall or have corner board trim.
- G. If shutters are used for windows on the front of the home, they should also be used on appropriate windows on the sides and rear of the home. Similarly, window casings and trim features on the front of the home should be used on the sides and rear of the home.
- H. Any exposed basement or foundation walls shall be covered with masonry veneer or cedar or other approved natural material (including manmade).

The construction materials outlined in this paragraph apply to replacement materials,

as well as original construction materials.

- I. Each home shall be roofed with an Architectural or Dimensional Shingle, type and color of which shall be approved by the Board.
- J. Each home shall have a preferred minimum roof pitch of 8 inches of rise for every 12 inches of depth.

LOCATION, SETBACK, AND LOT IMPROVEMENTS

- A. **Location.** The home or garage (including eaves, steps, overhangs and attached porches, patios and other appurtenances) located on any lot shall be in accordance with the Final Plat Building Envelope, if any, municipal ordinances, these Declaration of Restrictions and must be approved by the Architectural Control Board.

B. **Lot Improvements.** Notwithstanding the setback and improvement requirements 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 Board prior to any construction, it being intended that the Board may, in its discretion, impose greater setback requirements than those specified above in order to achieve or maintain the aesthetic appearance for the development or any portions thereof which the Board deems advisable.

APPROVAL OF ARCHITECTURAL CONTROL BOARD (SOMETIMES REFERRED TO AS THE “BOARD”) REQUIRED FOR ALL IMPROVEMENTS

- A. 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, color or material composition) without: (1) prior submission of detailed plans to the Board appropriate for its review and approval; and (2) acquisition of prior written approval by the Board. Plans, to be considered appropriate for review by the Board, must include the following (unless the Board advised 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 survey showing the location of the improvement with respect to setbacks from lot lines and other buildings and improvements, finish grade elevations, topography and other data pertinent to such review by the Board as it may reasonably request. The Board shall not be required to approve any improvement if, in its sole judgment, any one or more of the following purposes 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, setbacks, finished grade elevations, drainage and plantings 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 BOARD MAY BE REQUIRED TO REMOVE SUCH IMPROVEMENT IN ITS ENTIRETY AT THE LOT OWNER'S EXPENSE.

- B. Upon approval by the Board of the plans for the proposed improvement and upon receipt of any necessary Village of Richfield and other governmental approvals or permits, construction or installation of the improvement may commence and, once commenced, shall be completed within twelve months following acquisition of Board approval and issuance of any required building permit by the Village of Richfield. The Board may, in its discretion, extend such completion deadline up to an additional six months in the event it finds the delay has been caused primarily by factors beyond the control of the lot owner and his/her contractors, including weather for purposes of completing the driveway and landscaping only
- C. In the event the Board fails to act upon proposed plans within 30 days following written acknowledgement by the Board 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 year following final completion thereof, no right shall exist to thereafter enforce these restrictions insofar as approval by the Board is required as to such particular matter.
- D. Subject to Paragraph (c) in order for any approval or permission of the Board under this section to be binding or effective, it must be in writing signed by the President or Secretary of the Association. No oral statements, representations or approvals of the Board or any of its members or agents shall be binding on the Board under any circumstances, regardless of any reliance thereupon by any lot owner.

LANDSCAPING AND DRAINAGE

- A. The topography and ground elevation of each lot shall be finished as required by the Developer and in accordance with the Master Grading Plan on file with the Village of Richfield, for the efficient discharge and drainage of surface groundwater throughout the subdivision. Final grading of the lot shall be completed within two months following the date an occupancy permit is issued for a dwelling. Except for drainage easements located on a lot owner's property which shall be maintained by the individual lot owner, any and all drainage easements, detention ponds or the like shall be repaired and/or maintained by the Association. Any drainage easement or detention area located on the plat shall be maintained in a natural state and clean,

clear and free of all obstructions or barrier of any kind. Landscaping within these areas shall be restricted to ground cover to inhibit erosion

- B. Within six months following issuance of an occupancy permit for a home, a complete landscaping plan for the entire lot shall be submitted to the Board for its approval. All landscaping shall be completed (in accordance with the plan approved by the Board) within twelve months following the issuance of the occupancy permit for the home.
- C.. To avoid a substantial increase in surface water drainage onto adjoining lots, the landscaping plan shall provide for adequate drainage of storm and surface water away from adjoining lots if natural drainage on the lot is to be or has been altered by grading or landscaping by the lot owner. No trees, shrubs or other landscaping plantings shall be permitted in any drainage area.
- D. No lot line, fence, wall, hedge or screen planting shall be installed unless in accordance with landscaping or other plans approved in advance by the Board. In no event will the Board approve a fence or wall within the setback or unimproved areas.
- E. Each lot owner must strictly adhere to and finish grade its lot in accordance with the Master Lot Grading Plan or any amendment. The DEVELOPER and/or their agents, employees or independent contractors, upon written notice to the owner of a vacant lot, shall have the right to enter upon such lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the property owner is responsible for cost of the same.

DRIVEWAY

Each lot shall be improved by the lot owner with an approved hard surface driveway extending from the street to the garage within twelve months following issuance of an occupancy permit for the home. In the driveway is installed as a concrete driveway, the concrete shall be installed no closer than six (6) feet to the traveled portion of the roadway and the area between the concrete drive and the traveled portion of the roadway shall be paved with asphalt.

CONSTRUCTION

- A. 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 as long as may be necessary, not to exceed one year from the date of commencement of construction. Excess excavated material shall not be stored on any lot during or after construction without the prior approval of the Board, unless required for backfilling, finish grading or landscaping, in which case it shall be used,

removed, and the ground restored immediately following completion of construction, which shall not exceed one year following the date of commencement of construction.

- B. Each lot owner shall include the following provisions in all construction contracts:
1. The roadway abutting the lot shall be cleaned each day of mud and debris during the period of construction.
 2. There shall be no loud music at the construction site during the period of construction.
 3. A dumpster shall be provided at the building site for the period of construction for debris.
 4. All burning of debris must comply with municipal burning ordinances and regulations.
 5. There shall be no more than one sign on any lot during the period of construction and that said sign shall not exceed six square feet and must be approved by the Board prior to installation.
 6. That no sign of any contractor shall be placed at the entryway to the development.

If the lot owner does not include such provision in the contract with the contractor or if the lot owner does not enforce the provision, the Board may take the necessary action to enforce the provision at the lot owner's expense.

WIRES AND ANTENNA

- 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 Board prior to the installation.
- B. No rooftop, towermounted or other external antenna for television or radio reception, satellite dish or for other electronic transmission or reception shall be erected, installed or used without the prior approval of the Board. Any lot owner who causes or allows any such rooftop or other external antennas or satellite dishes to be constructed, installed or placed on a lot without the prior written approval of the Board may be required to remove such improvement or the Board may remove such equipment in its entirety at the lot owner's expense.

SHEDS AND OUTBUILDING

Sheds and outbuildings are permitted provided that the following requirements have been satisfied:

- A. Each shall have a minimum roof pitch consistent with the home;
- B. The maximum square footage shall be no greater than 400 square feet;
- C. Door openings and all overhead doors shall not exceed 8 feet in height;
- D. Color design and building materials shall be consistent with existing home on the lot;
- E. No vinyl, steel or aluminum siding shall be allowed on any exterior;
- F. Underground electric shall be required for all sheds/outbuildings;
- G. Site location, landscape plans, construction plans and survey shall be submitted to the Architectural Control Board for consideration prior to construction of the same;
- H. No leanto or carports of any nature shall be permitted.
- I. Located within setback lines.

SWIMMING POOLS

There shall be no above ground swimming pools. In ground swimming pools shall be completely enclosed by a secure fence or wall not less than four feet above ground elevation. Such fence or wall shall be provided with a selfclosing and selflatching gate or door with the latch located at the top of the gate or door. An unobstructed areaway of not less than four feet shall be provided between the pool and such fence. All electrical connections to any swimming pool shall be properly grounded so that no electrical current can be discharged into any part of such pool or surrounding fences. No electric wires or other electrical conductor shall be strung over any swimming pool. Prior to installing any in-ground pool, all necessary Board and Village approvals must be first obtained.

SIGNS

No signs or banner of any kind shall be placed or displayed to public view on any lot except one sign of not more than four square feet advertising the property for sale. No signs can be placed at the entryway of the development advertising a lot for sale.

SOLAR COLLECTORS

No exterior active solar collectors or similar devices shall be erected, installed or used without the written permission of the Board.

REFUSE AND GARBAGE RECEPTACLES

All refuse and garbage receptacles shall be stored in the home, garage or other structure on the premises except for the period twelve hours before and twelve hours after the scheduled garbage pickup.

INCINERATOR

No incinerator or incineration system for burning garbage or debris shall be used or permitted.

THE ASSOCIATION

CREATION OF ASSOCIATION

- A. The Developer shall totally control all phases of development and operation of the development, including the Architectural Board until after it sells or transfers 100% of the lots in the development. At that time, all members of the Association will be able to vote for a Board of Directors pursuant to this Declaration.
- B. The Association shall exist during the term(s) of this Declaration and shall automatically terminate upon termination of this Declaration.
- C. The Association shall exist for the purpose of electing the Architectural Control Board and maintaining the common areas and other designated lands above referred to.
- D. The Association shall be governed by the Board of Directors consisting of three members as detailed herein.

MEMBERSHIP

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 and payment of assessments being the sole qualifications for membership.

POWERS OF THE BOARD OF DIRECTORS OF THE ASSOCIATION

- A. The Board of Directors of 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 enforce this Declaration;

2. hold an annual meeting for the purpose of electing Directors 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;
3. to adopt rules and regulations and to exercise all other powers necessary to operate the Association for the mutual use and enjoyment of all lot owners; and
4. to adopt rules and regulations for the management, operation, maintenance and enjoyment of the common areas.

ARCHITECTURAL CONTROL BOARD

- A. The Board shall initially consist of three persons appointed by the Developer to hold office until successors are elected by the Association. A person must be a lot owner or coowner of a lot in order to be eligible to serve as an officer and a member of the Board.
- B. Vacancies in any position on the Board shall be filled by a majority vote of the Board of Directors of the Association.
- C. Regular meetings of the Board shall be held at such times and places as the Board determines by resolution to be appropriate and no notice of regular meetings shall thereafter be required.
- D. Special meetings of the Board may be called by any officer on three days prior notice to each officer, given orally or in writing.
- E. For all meetings of the Board, a quorum necessary to transact business shall consist of a majority of the officers and the act of such majority shall be the act of the Board.
- F. Any action of the Board authorized under this Declaration may be taken upon the unanimous consent of all Board Members without a meeting.

MISCELLANEOUS

NO REVERSION OF TITLE

Under no circumstances shall any violation of this Declaration or of any rules or regulations result in any reversion of title to any lot to the Developer.

RESERVATION BY DEVELOPER OF RIGHT TO GRANT EASEMENTS

The Developer hereby reserves the right to grant and convey easements to the Village of Richfield and/or to any public or private utility company, upon, over, through or across those portions of any lot in the development within ten feet of any lot line for purposes of allowing the Village or utility company to furnish gas, electrical cable television or other utility service to lot(s) or through any portions of the development or for purposes of facilitating drainage of storm or surface water within or through the development. Such easements may be granted by the Developer, in its own name and without the consent or approval of any lot platted or to be platted in the development to persons other than a SuccessorDeveloper.

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.

COVENANTS RUN WITH LAND

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

AMENDMENTS TO DECLARATION

This Declaration may be amended by recording in the office of the Register of Deeds for Washington County, Wisconsin, a document to that effect executed by the owners of at least 50% of all lots in the development with all signatures duly notarized or by the Developer prior to the sale of 100% of all lots. Such amendment shall become effective only upon recording. Notwithstanding the above, the Developer reserves the exclusive right to amend this Declaration through December 31, 2026, subject to obtaining the Village's approval. If no action is taken by the Village within sixty (60) days from the Village Board's receipt of a written request from the Developer to amend this Declaration, on or before December 31, 2026, the approval shall be deemed made.

TERM OF DECLARATION

This Declaration (and any amendments) shall be binding for a period of thirty (30) 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 twenty year period, this Declaration shall be automatically renewed for a successive period of ten years and thereafter for successive periods of ten years upon the expiration date of the prior renewal period, unless there is recorded an instrument (executed by the owners of at least 50% of all lots in the development or by the Developer prior to selling 100% of the lots) terminating this Declaration in which event this Declaration shall terminate upon the recording of such instrument.

DISCLAIMER

Notwithstanding any other provisions of this Declaration, the Developer is under no obligation to any lot owner to develop or plat at any time any portion(s) of this development not already platted as of the date of recording of this Declaration.

ENFORCEMENT OF DECLARATION

- A. The Association 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 and regulations adopted by the Association, except that any lot owner may proceed, at such owner's expense to enforce any such terms, conditions or provisions if the Association fails to take such action within sixty (60) days following a written request by such lot owner for the Association 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 Association or by a prosecuting owner in the successful enforcement thereof. The Association shall not be subject to any suit or claim by any lot owner for failure of the Association to take any action requested by such lot owner against another lot owner. No lot owner (other than the Board of Directors of the Association) shall have any authority to act for the Association, as agents or otherwise, or to bind the Association or the other lot owners to contracts, negotiable instruments or other obligations or undertaking of any kind.
- B. 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 Association to exercise any such right or remedy for any violation shall not be a waiver of such right or remedy under any circumstances.
- C. Under no circumstances shall any violation of this Declaration or of any rules or regulations result in any reversion of title to any lot.

INTERPRETATION

These declarations shall be construed and interpreted in favor of restricting the use of each lot consistent with the purposes hereof and any ambiguity shall be resolved against any lot owner who installs any structure or engages in any activity not clearly authorized under these declarations or approved in writing by the Association.

COMMON AREAS

Common areas under these Declarations consist of Outlots 1 and 2, and any Drainage Easements identified on the Final Plat for Elmwood Highland Estates. Common areas shall be maintained by the Owners Association as detailed herein. All Outlots in this subdivision shall be owned in equal undivided 1/30th interest by the owners of the lots in the subdivision.

APPLICABLE LAW

This Declaration shall be construed and enforced in accordance with, and governed by, the laws of and in the courts of the State of Wisconsin.

IN WITNESS WHEREOF, this Declaration of Restrictions is executed by Tracy Weber, Manager of Elmwood Highland Estates, LLC, as Developer, as of the date first written above.

ELMWOOD HIGHLAND ESTATES, LLC

By: _____
Tracy Weber, Manager

EXHIBIT A