

Addendum #2 to Offer to Purchase dated _____ and signed by _____
as Buyer for the Property known as Lot(s) _____, WATERLEAF.

WATERLEAF SUBDIVISION
GUIDELINES FOR PLAN APPROVAL

Waterleaf is high quality residential community that blends with the countryside while preserving the natural character of the land. The site plan, which features curved streets, landscaped grounds and open space will encourage higher quality homes with enhanced property values. Deed restrictions will require consistent architectural treatment on all building elevations. Consideration of the following guidelines must be given in the design of your home.

Style of Architecture: Homes must be of a classic traditional design such as Early American, Cape Cod, English Tudor, French Manor, Southern Colonial or similar design, except for sunrooms, greenhouses and special window walls which might be contemporary in nature but complement the design of the home and which are located in an unobtrusive location.

Minimum Size: Minimum home size must conform to the recorded Declaration of Restrictions. (3,000 square foot minimum living area.)

Garages: Homes must have an attached garage for at least three cars. Unless a variance is approved by the Architectural Control Committee (the "Committee"), garage entrances must be on the side of the building. The garage shall not contain more than one vehicle parking space for each full 1,000 square feet of living space.

Siding: The exterior walls of the home and attached garage must be constructed of natural wood, full-size brick, natural stone or stucco. Certain manufactured exterior siding products such as Hardi-Plank or its equivalent may be allowed upon specific approval of the Committee but in no event will aluminum, vinyl, or steel siding be acceptable. Windows may be vinyl or aluminum clad. Shutters may be textured vinyl. Garage and service doors may be wood, steel or fiberglass and must have a raised panel or similar decorative design. The variety of exterior materials should be kept to a minimum and must be used consistently on all elevations. Only materials that are present on the front elevation of the home and attached garage may be used on the other sides of the home.

Windows: When shutters are used on the front of a home, they must also be used on appropriate windows on the sides and rear. This also applies to other trim features on the home. In non-masonry openings, casings of at least four inches in width must be used on all windows without shutters and on all doors. Windows in masonry openings shall have stone or brick sills and a brick or stone soldier course or corbeling at the top and sides, or other appropriate, similar detail. The Committee may require the placement of windows in walls that would otherwise be blank or featureless. (Chimneys, bays or other projections on a wall are not, by themselves, an architectural "feature".) An attractive, balanced exterior design will take precedence over concerns about furniture arrangement. All windows must have either authentic divided lites, simulated divided lites (permanent muntin bars adhered to both the interior and exterior of the window) or muntin bars between two glass panes. The muntin bars are not to be removed except for cleaning. The style of the windows must be consistent with the architectural style of the home and must also be consistent throughout the home.

Masonry: Masonry material used on the exterior walls must terminate only at an inside corner. Other exterior materials such as lap siding, stucco, etc. must also terminate at an inside corner.

Bays: Any bays and other projections, which extend down to the top of the foundation level must have a foundation beneath. "Hung bays" not extending down to the foundation are permitted if supported by appropriate brackets.

Fireplaces and Chimneys: Each home shall have at least one full-masonry fireplace. This primary fireplace must be built of full masonry construction (not a pre-fabricated insert or flue) on the interior and exterior of the residence, including the chimney. Chimneys of secondary fireplaces must be of full masonry construction or have a pre-fabricated insert with a masonry veneer exterior. All chimneys and chimney chases must have a foundation beneath. All chimneys must have caps of concrete or stone. No metallic chimney material shall be visible. Chimneys having a stucco finish are acceptable.

Roof: All two story and story and one-half residence roofs must have 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. All one story residence roofs must have a minimum pitch of ten feet in height for each twelve feet in length (10/12). A lower minimum roof pitch may be allowed in special circumstances if approved in writing by the committee. Roofs must be of either tile, wood shakes, wood shingles or dimensional fiberglass GAF Ultra or Landmark 50 shingles, or their equivalent, in a "weatherwood" color. The Committee may approve other roofing materials if it determines that the materials are of equal or greater quality and consistent with the architecture of the home.

Sloped Lots: The Committee may require on sloping lots that certain basement walls be exposed to minimize the impact on trees, vegetation and drainage as well as allow for a more natural transition between homes. Any exposed basement or foundation walls must be covered with face brick, stone or stucco. Homes with exposed basement or foundation walls must have a horizontal band of wood or masonry at least 12" wide, at the height of the first floor, to create a visual separation between the foundation and the walls above. Garages must be constructed on the high side of the lot unless a special exception is approved by the Committee.

Setbacks: All buildings must be placed within the designated building envelope for each lot as depicted on the final plat of Waterleaf. Not less than 13,000 square feet of open space shall be provided on each lot in addition to the open space provided by the setback requirements. Lot owners are encouraged to maximize the area of open space on each lot.

Colors: Exterior colors must be submitted to the Committee with the house plan and are subject to approval by the Committee. The number of exterior colors should be kept to a minimum. It is recommended that a maximum of two colors be used on the walls and trim and one color for such items as shutters and doors.

Miscellaneous:

1. Homes that are too similar in appearance, in the judgment of the Committee, will not be permitted to be constructed in close proximity to one another.
2. The deed restrictions prohibit outbuildings such as storage sheds. Please make sufficient provisions for storage within the perimeter of the home.
3. The house and attached garage must be completed within one year from the start of construction. A landscape plan for each lot must be submitted by the lot owner to the Committee for approval. The landscaping must be completed in accordance with the approved plan within

one year of occupancy of the home.

4. All driveways must be paved with concrete or brick (except for the first 5', which must be asphalt or brick) within one year from the occupancy of the home. The city of Delafield does not allow concrete on the first 5' of driveway (i.e. within 5' of the edge of the roadway pavement).

5. Upon completion or occupancy (whichever occurs first) of their home each owner is required to install a Hanover "Suffolk" #555-52630-CP-ARB outdoor electric lamp with a #555-350-10' #8-ARB matching post and base and photoelectric control. The location of this lamp shall be on the front lot line, eight feet from the house-side of the driveway. The lamp shall be maintained by the lot owner in a proper operating manner. Each owner is also required to install a Hanover #555-M61-ARB mailbox. The mailbox location will be as directed by the local Postmaster. Maintenance and repair of the mailbox is the responsibility of the lot owner. The estimated cost of this lamp, post and mailbox is about \$1,015.00 and shall be paid at closing.

6. Each lot owner, at the time of home construction, will be responsible for grading their lot so as to direct drainage toward the street or other established drainageway and to prevent an increase in drainage onto neighboring property. In addition, at the time of construction, erosion control measures must be installed and maintained according to the standards and specifications set forth in Wisconsin Construction Site Best Management Practices Handbook and local ordinances. Final grading of the lot must be completed within 2 months of occupancy of the home. Erosion control measures must be maintained until vegetation has been established on the entire lot.

7. No mast-type antenna may be mounted or installed on any roof. Satellite dish antennas may not have a diameter in excess of 24 inches and are to be placed to the extent feasible in a location that is not visible from the street while still permitting reception of an acceptable quality signal. All exterior antennas require the prior approval of the Committee.

Approvals: All house plans, yard grades and stake out surveys must be approved by the Committee prior to beginning any construction. The Committee must also approve all swimming pools, pool houses, fences, decks, and retaining walls. Swimming pools must be in-ground. Retaining walls are to be constructed of natural stone or wood timbers or other material which is complementary to the landscape design and which has been approved by the Committee in writing. Fences are to be of a decorative style. Chainlink and privacy fences are not allowed. Fencing of entire yards is not allowed. Exterior kennels, animal pens or other structures intended to house animals are prohibited.

In order to properly evaluate a design, the Committee will require that house plans submitted for approval must be drawn by a professional home designer or architect. A preliminary plan must be submitted to the Committee for review prior to preparation and submittal of final plans.

As provided in the Declaration of Restrictions for Waterleaf at Section 3.02, the Committee has the right to modify these guidelines and the building restrictions if, in its opinion, the modification or variance is consistent and compatible with the overall scheme of development.

It is the intention of the developer to assist the lot owners in achieving a compatible arrangement of quality homes. Please consider these guidelines when advising your design specialist.

**DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
WATERLEAF SUBDIVISION**

***NOTICE TO PROSPECTIVE LANDOWNERS
OF WATERLEAF SUBDIVISION***

PLEASE TAKE NOTICE THAT WATERLEAF SUBDIVISION IS SUBJECT TO MANY SPECIAL RESTRICTIONS AND COVENANTS. THESE RESTRICTIONS AND COVENANTS ARE INTENDED TO PRESERVE THE NATURAL BEAUTY AND RESOURCES OF THIS SUBDIVISION AND TO PRESERVE THE VALUE OF THE LAND FOR BOTH INDIVIDUAL LANDOWNERS AND THE SURROUNDING CITY AND COUNTY.

PLEASE READ THESE RESTRICTIONS AND COVENANTS CAREFULLY AS THEY INCLUDE LIMITATIONS ON THE USE OF YOUR LAND. SOME OF THESE LIMITATIONS INCLUDE:

1. Waterleaf Subdivision includes a variety of stormwater management facilities. These facilities are either common space owned in fractional interest by all Lot Owners or easements granted for the benefit of the Homeowners Association and the Lot Owners. The cost of maintaining these features and facilities will be common expenses of the Homeowners Association and the Lot Owners.
2. Waterleaf Subdivision includes permanent common open space, other common landscape features, and landscape buffers for the benefit of all Lot Owners. The cost of maintaining the open space, common landscape features, and landscape buffers will be common expenses of the Homeowners Association and the Lot Owners. River access from the permanent common open space for motorized boating purposes and watercraft storage is prohibited.
3. Certain lots include areas designated Primary Environmental Corridor, wetland, or stormwater management facilities. The owners of these lots must comply with certain restrictions set forth in this Declaration, in the Preservation Restrictions and Trail Easement granted to Waukesha County, or other ordinances or regulations specific to the area involved. No trees (other than dead or diseased) may be removed from the Primary Environmental Corridor and any person damaging or removing such trees may be subject to prosecution under applicable City, County, or State ordinances, regulations, or statutes.
4. Certain areas of the Subdivision as designated on the Plat are subject to a Preservation Restrictions and Trail Easement granted to Waukesha County, the terms and conditions of which may be obtained from the developer or the office of the Waukesha County Register of Deeds.
5. This subdivision is served by municipal sewer. Private water wells are to be installed by individual Lot Owners. In the event a municipal water system becomes available to serve this subdivision, the cost of installing such system will be charged to Lot Owners by the City as a special assessment.

This Declaration is made and executed so as to be effective the First day of April, 2004, notwithstanding the date of actual execution by Waterleaf Realty, LLC ("Developer"). This First Amended Declaration of Restrictions and Covenants supercedes the Declaration of Restrictions and Covenants recorded July 29, 2003 in the office of the Register of Deeds for Waukesha County as Document #3032931.

WHEREAS, Developer owns the land which has been platted as Waterleaf, a subdivision located in the City of Delafield ("City") consisting of 25 platted lots ("Lots") and two outlots; and

WHEREAS, Developer desires to subject the Lots to the conditions, covenants, restrictions, reservations and easements hereinafter set forth, for the benefit of the Subdivision and for the benefit of Lot Owners in the Subdivision;

NOW, THEREFORE, Developer hereby declares that the real property hereafter described shall be used, held, transferred, sold and conveyed subject to the terms, provisions and conditions herein set forth, which shall inure to the benefit of and pass with said property and each and every parcel thereof as covenants running with the land and shall apply to and bind all successors in interest, users and owners thereof.

0.01 **DEFINITIONS.**

- Article III.
- (a) **"Committee"** shall mean the Architectural Control Committee referred to in
 - (b) **"Developer"** shall mean Waterleaf Realty, LLC.
 - (c) A **"Home"** shall mean a dwelling Unit designed for one family.
 - (d) **"Lot Owner(s)"** shall mean the fee simple owner(s) of record title to the Lot, regardless of the type of tenancy or estate.
 - (e) **"Del-Hart"** shall mean the Del-Hart Sanitary District.
 - (f) **"Park Department"** shall mean the Waukesha County Parks and Land Use Department.
 - (g) **"Plat"** shall mean the Final Plat as defined in Chapter 236, Wis. Stats.
 - (h) **"Subdivision"** shall mean Waterleaf, a platted subdivision of the land described in this Declaration.

- (i) "City" shall refer to the City of Delafield, Wisconsin.
- (j) "WDNR" shall mean the Wisconsin Department of Natural Resources.
- (j) An Article shall mean all those provisions included under an Article heading, including all subsections [e.g., 0.00 (a)] and paragraphs [e.g., 0.00 (a)(1)].

ARTICLE 1 - PROPERTY SUBJECT TO DECLARATION

1.01 PROPERTY SUBJECT TO DECLARATION

All platted lots within Waterleaf, together with all common open space or other common space shall be subject to this Declaration. It is expressly understood that Developer shall have a unilateral right to add new or additional lots or phases of Subdivision to the lands subject to this Declaration under Section 5.05 below.

The following shall constitute the common area of the subdivision:

- (a) All outlots, stormwater management facilities, permanent common open space (Outlot 1), recreation court, parking and picnic area (Outlot 2), monument signs, directional signs, or other signs placed by the Association or Developer, or other common area as shown on the Plat;
- (b) The area of any easements granted to the Association by the Developer over portions of land within the Subdivision; and,
- (c) Landscape features or other area designated as common area.

The common area of the subdivision shall be owned in fractional interest, per capita, by all Lot Owners of the subdivision. The Association shall be responsible for the maintenance and upkeep of the common area.

ARTICLE II - USE OF LOTS

2.01 GENERAL PURPOSE

The general purpose of this Declaration is to help assure that the Subdivision will become and remain an attractive residential community; to preserve and maintain the natural beauty of areas within the Subdivision; to help guard against the erection or maintenance of poorly designed or

proportioned structures; to obtain harmonious use of materials and color schemes; to encourage the erection of attractive residential structures with appropriate locations on the lots; to prevent haphazard and inharmonious improvements of building sites, structures and other improvements; to comply with the various requirements advanced by the City and the County of Waukesha as a condition of development; and to otherwise secure mutual enjoyment of benefits for owners *and* occupants of residential property within the Subdivision.

2.02 SINGLE FAMILY LOTS

(a) All lots shall be used solely and exclusively for single family residential purposes:

(b) No building shall be erected, altered, modified or permitted to remain on any lot other than one single family dwelling, not exceeding two and one-half stories in height, with an attached private enclosed garage for not less than three automobiles.

2.03 ARCHITECTURAL AND LANDSCAPING APPROVAL REQUIRED FOR IMPROVEMENTS

(a) No Home, building, structure, wall, retaining wall, deck, fence, swimming pool or other improvement shall be constructed, erected or placed on any lot or altered, modified or changed (as to layout, location, exterior design, color or in any other way) until the complete plans, specifications, drawings, together with a plot plan showing the exact location of the improvement and a sketch or view of the improvement, have been approved in writing by the Committee.

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

(c) Construction of improvements shall be completed within one year after the last approval or permit has been obtained necessary for commencement thereof; but in no event later than the period then required by the City under its ordinances.

(d) All plans for dwellings shall include a landscape plan which will be subject to the approval of the Committee and which may be submitted for approval subsequent to submission of the building plans for the Home. The approved landscape plans shall be completed with one (1) year from the date of occupancy. No landscape plan shall thereafter be materially altered without the prior written approval of the Committee. Except for areas in which landscaping and maintenance is otherwise restricted, landscaping shall be undertaken principally as traditional sod or grass seed and grass shall be cut to reasonable conventional lawn levels consistent with

neighboring properties and properties adjacent to the subdivision. Prairie grass, rock garden, or other non-traditional landscape styles will be strictly prohibited in the front yard. Subject to approval by the Committee, the use of prairie grass, rock garden, or other non-traditional landscape styles may be allowed in the backyard; however, any approved use will be strictly limited to a use which complements an otherwise traditional landscape style.

(e) Each Home shall be designed by an architect, professional engineer or a person experienced in residential design approved by the Committee.

(f) Any suit for damages and/or injunctive relief based upon the failure of any Lot Owner to obtain approval from the Committee as required under these Declarations, shall be commenced by the Committee or any other Lot Owner or the City within one (1) year following completion of construction, installation, change or modification of any building, structure, wall, fence or other improvement; otherwise, the approval required heretofore shall be conclusively presumed to have been given and the Committee and Lot Owners (and their respective successors and assigns), shall forever be barred with respect thereto. In no event, however, shall the Committee or any Lot Owner be precluded from enforcing these Declarations as to any subsequent or other construction installation, change or modification for which approval of the Committee is required. This section shall not serve as a limitation on the City as to enforcement of City ordinances or codes.

2.04 MINIMUM SINGLE FAMILY HOMELIVING AREAS

Each and every Home to be constructed in Subdivision shall have no less than 3,000 square feet of minimum living area at or above grade herein set forth, exclusive of exposed lower levels, porches, garage bays, patios, breezeways, sunrooms and similar additions.

2.05 BUILDING SETBACK LINES

(a) No building, garage or other structure (excluding eaves, steps, overhangs, patios, or other appurtenances not built on a foundation or frost-footings) shall be located on any lot so that the front, side and rear yard distances are less than minimums required by the Building and Zoning Code for the City or as otherwise set forth on the Plat.

(b) Buildings and structures shall be placed on a lot so as to minimize the area of disruption, minimize the building envelope, and maximize the preservation of wilderness area. Building and structure placement shall be in accord with the provisions of §2.16 herein.

(c) Lots 19 through 24 include land designated as Primary Environmental Corridor (more specifically set forth on the Plat), which includes land further designated as the 100-year flood plain or wetlands. No structure or improvement (including docks, piers and boardwalks) may be constructed and no ground altering activity (including the addition of fill) may be undertaken in the Primary Environmental Corridor. It is further noted that land included

within or adjacent to these lots is subject to that certain Preservation Restrictions and Trail Easement granted to and for the benefit of Waukesha County and the Park Department.

(d) Lots 1 through 6 and 25 are subject to a fifty-(50) foot landscape buffer easement at the rear lot line, which easement is designated as “50’ building setback per CSM 6064” on the Plat. Lot Owners may add plantings to, but shall not disrupt or remove any plantings within the landscape buffer easement. No structures or other improvements may be constructed or placed within the landscape buffer easement.

(e) Construction on each lot shall be undertaken so as to ensure that not less than 13,000 square feet of open space (as that term is defined under City building and zoning codes) shall be provided on each lot in addition to the open space provided by building setback requirements. This restriction shall be interpreted as setting forth the minimum allowable open space on each lot so as to provide compliance with the conditional use permit provided for the Subdivision. Lot Owners are encouraged to maximize the open space on each lot.

2.06 GARAGES: PARKING

(a) Each lot shall have a private enclosed garage for the on-site storage of motorized vehicles, as defined in Article 2.28, to be connected to the street by a concrete or brick driveway.

(b) The garage shall be located within the building setback lines as specified in Section 2.05 and shall be attached to the Home and form an integral part of the Home either by direct attachment or by connection to a porch or breezeway.

(c) The garage shall harmonize with the Home as to design, materials and finished floor elevation.

(d) All garages shall be side-entry garages which do not face the same direction as the architectural front of the house, except by variance granted by the Committee.

(e) The garage shall not contain more than one vehicle parking space for each full 1,000 square feet of living space.

2.07 DRIVEWAYS

(a) Each lot shall have a concrete or brick drive, parking stand or turn-around approved by the Committee. The driveway shall be installed and completed within one year from the date of first occupancy of the dwelling. Asphalt may be used only for the driveway approach and only to the extent required by the City of Delafield.

2.08 ROOFING MATERIAL AND CONSTRUCTION

All two story and story and one-half residence roofs must have a minimum pitch of 8 feet in height for each 12 feet in length (8/12), except for rear dormers on a story and one-half residence. All one story residence roofs must have a minimum pitch of 10 feet in height for each 12 feet in length (10/12). A lower minimum roof pitch may be allowed in special circumstances if approved in writing by the Committee. Roofs must be constructed of either tile, wood shakes, wood shingles, or dimensional fiberglass GAF Timberline Ultra or CertainTeed Landmark 50 (Weathered Wood color) shingles. The Committee may approve other types of roofing materials and reserves the right to approve only such types of roofing material as it determines to be of equal or greater quality and to be in keeping with the architecture of the Home as proposed. All roof designs shall be subject to the approval of Committee.

2.09 EXTERIOR AND INTERIOR BUILDING MATERIALS AND HOME QUALITY

(a) All Homes proposed to be erected, altered or modified shall be of traditional design, comply with the Building Restrictions of the City and shall, on the construction plans and specifications submitted to the Committee, denote materials acceptable to the Committee and the construction shall be carried out in accordance with material (s) as approved by the Committee.

(b) The design, layout and exterior appearance of each Home proposed to be erected, altered or modified shall be such that, in the opinion of the Committee at the time of the approving of the plans, the Home will be of high quality. Homes will be of a classic traditional design, such as Early American, Cape Cod, English Tudor, French Manor, Southern Colonial, or similar design. The only deviations to be considered are sunrooms, greenhouses and special window walls which might be considered contemporary in nature. The preceding deviations will only be considered if they complement the design and are located in an unobtrusive location relative the Waterleaf streetscape.

(c) The exterior of all Homes shall be constructed of natural materials such as brick, stucco (including Dryvit-type finishes), stone, cedar, or a combination thereof. No vinyl or aluminum siding may be used. Fiber-cement products (such as Hardiplank) may be used.

(d) The proposed color schemes for the Home to be erected, altered or modified shall be submitted to the Committee for approval prior to initial construction and any subsequent change in the color schemes.

(e) All exposed basement or foundations shall be covered by face brick, stone or stucco.

(f) Each Home shall have a minimum of one (1) masonry fireplace. The exterior portions of fireplace chimney structures or chases must be masonry or stucco (including Dryvit-type finishes). All chimneys will have decorative caps. No tin, aluminum, stainless steel or other metallic chimney material shall be visible.

2.10 YARD LIGHTS

(a) Developer requires the installation by each lot owner of an approved electric lamp post with photoelectric cell selected by the Developer for each residential lot. Each such light shall be of a uniform design throughout the Subdivision and placed on the front lot line, eight feet from the house side of the driveway or as otherwise approved by the Committee. The lamp post design selected by the Developer shall be subject to approval by City staff.

(b) The lamppost shall be purchased from the Developer at closing. If such yard light is not so installed within six (6) months from the date the Home is occupied, the Developer or the Association may, after notice, either install the yard light and charge the full cost of such installation to the owner of the lot; or, install the yard light and place a lien on the property for the full cost of such installation plus interest at the rate of twelve percent (12%) per annum.

2.11 MAILBOXES

Mailbox/newspaper box shall be purchased from developer and installed in location to be determined by developer and US Postal Service.

2.12 GROUND FILL ON BUILDING SITE

Where ground fill is necessary on any lot to obtain the proper topography or finished ground elevation, it shall be ground fill free of waste material, and shall not contain noxious materials. All fill shall be leveled immediately upon completion of the Home and shall be graded and contoured in accordance with the Master Site Grading Plan approved by and on file with City. Unless Developer elects to the contrary as to any fill or any lot, all fill which is not used on the lot shall be deposited by the Lot Owner, free of charge to the Developer, at such places within the Subdivision as directed by the Developer. The City engineer shall have the authority to alter the final grade set forth on the Master Site Grading Plan for any lot based on field conditions at the time of construction.

2.13 SURFACE WATER DRAINAGE

(a) Surface Water Drainage. Each Lot Owner must strictly adhere to and final grade his lot in accordance with the Master House Grade Plan on file in the office of the City's engineer (Welch Hanson & Associates). The Developer and City shall have the right to enter upon any lot, at any time, for the purposes of inspection, maintenance and correction of any drainage

condition.

(b) Silt Fencing. The Developer may install silt fencing in certain lots in the subdivision to control erosion. Such fencing shall be maintained by the Developer and then the subsequent Lot Owners (on whose lots the fencing has been installed) until such time as turf cover is restored to all disturbed areas.

(c) Stormwater Management The Plat describes certain common area features as ponds, detention basins, or wetlands, all of which serve as and shall be referred to as stormwater management facilities. The Association shall be responsible for maintenance of the stormwater management facilities. Stormwater management facilities contained within an individual lot shall be subject to a landscape restrictive easement which shall prohibit landscaping or improvements which are inconsistent with these Declarations or the Stormwater Management Facilities and Common Area Maintenance Agreement. The Association or individual Lot Owner shall maintain the stormwater management facilities in accordance with the Stormwater Management Facilities and Common Area Maintenance Agreement on file with the City and recorded in the office of the Register of Deeds for Waukesha County. The City is authorized to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved stormwater management plan. The Association, on an annual basis, shall provide maintenance of each stormwater management measure, including but not limited to, removal of debris, maintenance of vegetative areas, maintenance of structural stormwater management facilities and sediment removal. Upon notification of the Association by the City of maintenance problems, which require correction, the specified corrective actions shall be taken within a reasonable time frame as set by the City.

(d) Remedial Action. In the event that maintenance of the stormwater management facilities is not undertaken by the Association or the individual Lot Owner, the City shall perform maintenance work on the stormwater management facilities if such failure to maintain (a) has a material adverse effect on property other than Waterleaf, or (b) endangers the public health or safety provided, however, that before the City shall have the right to perform any such maintenance pursuant to this section (except in the case of an emergency situation), the City shall provide Association or the individual lot owner with written notice stating with specificity the maintenance activities the City deems to be required with respect to the stormwater management facilities and Association or the individual Lot Owner shall have ten (10) days after receipt of such written notice to perform such maintenance, provided that said ten (10) day period shall be extended if the Association or the individual Lot Owner has commenced such maintenance work within said ten (10) day period and is diligently proceeding to complete the same. In the case of an emergency situation as determined in the sole discretion of the City, no notice will be required prior to the City performing emergency maintenance. The Lot Owners shall be liable for the failure of the Association to undertake any repairs, such liability to be pro rata according to their fractional ownership interest in the Common Area.

The cost of any measures undertaken by the City pursuant to this section shall be assessed against the Association, the individual Lot Owner, or the Lot Owners pro rata according to their fractional ownership interest in accordance with the provisions of §66.0627, Wis. Stats. It is expressly understood and acknowledged that such cost shall be deemed a special charge for current services and may be levied in accordance with the provisions of §66.0627, Wis. Stats. Any such assessment which is not paid within sixty (60) days after billing shall be deemed a delinquent special charge and shall become a lien upon the parcel(s) against which such charge has been assessed. Such delinquent charges shall be extended upon the current or next tax roll as a delinquent tax against the parcel(s) for which payment has not been received by the City, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charges.

2.14 SANITARY SEWER SYSTEM

(a) Each Lot will be serviced by the City's sanitary sewer system.

(b) Lot Owners are aware that certain fees and costs shall be charged to them by the City and/or Del-Hart. These include, but are not limited to, connection charges, wastewater treatment charges, user fees, and all other charges of whatever kind whether in existence now or at the time of connection. These charges and fees shall be billed, paid, and if necessary collected as provided in the above paragraph. Lot Owners further understand that they will be taxed or charged by the City for as long as they are within the City's sanitary sewer service area boundaries.

2.15 ENTRANCE, ROADS, SIGNAGE AND LANDSCAPING

Permanent common open space, other common area, signs, monuments and features, and entrance landscaping shall be maintained by Association.

The Developer, for itself, the Association and the Lot Owners does hereby reserve an easement over and upon Lots 1, 2, and 25 for purposes of constructing and maintaining a bicycle path for public use. The easement shall exist for that area designated on the Final Subdivision Plat as "Bicycle Path Easement" and for a reasonable distance on either side thereof for purposes of construction and maintenance of the bicycle path.

The Developer, for itself, the Association and the Lot Owners does hereby reserve an easement over and upon Lots 1, 2, 8, 13, 18, 19, and 25 for purposes of maintaining a vision easement as more particularly described in the notes on the Plat.

2.16 CONSERVANCY RESTRICTIONS

Certain portions of Waterleaf, specifically portions of Lots 19 through 24, include

land designated as Primary Environmental Corridor. This land is wooded, vegetated, or contains other environmentally sensitive characteristics such that the City, the Park Department and the Developer wish to insure the protection of this land.

This land is subject to certain conservation easements granted to the Park Department all as set forth in a separate document available from the Developer or as recorded in the office of the Register of Deeds for Waukesha County. The provisions of such easement(s) are incorporated into this Declaration.

No earth altering activities, including land disturbing, grading or filling activities may be undertaken in the Primary Environmental Corridor. No structures or improvements (including docks, piers and boardwalks) may be placed or constructed within the Primary Environmental Corridor.

Lot Owners shall use or cause their contractors to use the best available techniques to avoid soil erosion and sedimentation so as to protect the Primary Environmental Corridor, wetlands, or stormwater management facilities.

Lot Owners shall not mow grass nor remove, trim, or otherwise destroy any tree within the permanent common open space. Such trees within the permanent common open space as may be dead or diseased may be removed or otherwise destroyed upon approval of the Committee.

Lot Owners shall utilize only natural fertilizers or herbicides on their lawns.

Use of the Permanent Common Open Space is restricted by City zoning codes, County regulations, the terms of the conservation easement granted to Waukesha County and other governmental regulations. Lot Owners shall not use the Permanent Common Open Space to access the Bark River for motorized boating purposes. Lot Owners shall not use the Permanent Common Open Space to store watercraft.

2.17 LOT GRADING

(a) Within each set of building construction plans submitted to Committee for Committee approval shall be a Plat of Survey prepared by a Land Surveyor licensed by the State of Wisconsin. Such Plat shall thereon indicate the size and location of the Home, including the proposed finished ground grade or garage floor grade as well as other grades adjacent to the Lot.

(b) The Plat of Survey shall have grades that conform to the Subdivision's Master Site Grading Plan, which is on file at the City and Developer's Engineer.

(c) Minor grade changes from the Master Site Grading Plan, where these changes do not violate the purpose, spirit and intent of the Master Site Grading Plan, shall be

reviewed and, if for good and sufficient reasons, may be approved by Committee. The City engineer shall have the authority to alter the final grade set forth on the Master Site Grading Plan for any lot based on field conditions at the time of construction.

(d) Upon the receipt of the approval of said building grade, the applicant shall file such approved grade to the City for its review and approval.

(e) Final grading of a lot shall be completed within two months following the date of occupancy of a Home.

(f) The Developer reserves the right to set finished grades for all other structures, pools and fences.

(g) Each lot owner must strictly adhere to and finish grade its lot in accordance with the Master Lot Grading Plan or any amendment thereto approved by the City engineer on file in the office of the City clerk. The Developer and/or the City and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the lot owner is responsible for cost of the same.

2.18 DRAINAGE EASEMENTS

Stormwater management facilities shall either be common space owned in fractional interests by the Lot Owners or easements for the benefit of the Lot Owners and Association as set forth on the Plat. The Association and the City shall each have rights of ingress and egress over and upon any of the Lots as shall be necessary to reasonably access any stormwater management facility for purposes of maintaining, constructing, improving, inspecting or otherwise accessing the stormwater management facilities.

The Developer, for itself, the Association and the Lot Owners does hereby reserve an easement over and upon any lot containing a stormwater management facility for purposes of ingress and egress to and from the facility and for purposes of undertaking any construction, maintenance, inspection or other task arising out of the use of such facility for stormwater management. The easement shall be upon any lot containing a stormwater management facility, detention storage area, culvert, drain, sewer or similar accessory as shown on the Final Plat or as constructed, and shall include, without limitation, the following lots:

Lots 4, 5, 6, 7, 8, 19, 20, 21, 22, 23, 24, 25

2.19 NUISANCES

(a) No noxious or offensive odor, activities or conditions shall be permitted to

exist in, on or about any Home or Lot, which may be, or may become, an annoyance or nuisance to the neighborhood.

(b) No building or construction material or commercial or maintenance equipment shall be stored on any lot outside of a Home or garage, other than during periods of actual construction or remodeling and then only for as long as may be reasonably necessary therefor.

(c) Each Lot Owner shall perform such periodic maintenance as may be necessary to keep the lot neat and clean in appearance, including, without limitation, the mowing of grass and removal of weeds, leaves and unsightly debris (except no mowing of grass or removal of weeds or leaves shall be allowed within the Primary Environmental Corridor).

2.20 TEMPORARY STRUCTURES AND OUTBUILDINGS

No structure of a temporary nature, including without limitation, any trailer, tent or shack, shall be permitted on any Lot. No barn, shed, or outbuilding shall be permitted, except with the written approval of Committee. This prohibition shall not apply to the Developer during development of the Subdivision. Homes including a swimming pool shall be permitted to construct a pool house, but such accessory building shall be subject to approval by the Committee. Kennels, animal pens, or other structures or improvements intended to house pets or animals on the exterior of a building or structure are prohibited. Swimming pools shall be constructed at or below grade. Above ground swimming pools are strictly prohibited.

2.21 SIGNS

No sign of any kind shall be placed or displayed to the public view on any Lot, except one sign of not more than six square feet advertising the residence as for sale. This provision shall not apply to the initial marketing of any phase of the Subdivision by the Developer. Signs indicating the address of the Home shall be placed only in accordance with City ordinances.

2.22 ANIMALS AND PETS

No animals, livestock or poultry of any kind shall be raised or kept on any Lot, except that two (2) dogs and two (2) cats may be kept so long as the same are not kept, bred or maintained for any commercial purpose, permitted to run free or in any other unreasonable manner. Animals and pets shall be housed only in the interior of the Home and no exterior kennels, pens or other animal housing shall be maintained on the exterior of the Home.

2.23 WATER SUPPLY

Each Home shall be serviced by the individual wells of the Lot Owners.

2.24 ROADWAY ACCESS

All lots shall have public road access to *Waterleaf Lane* or *Sylvester Drive*, as set forth on the final subdivision plat. No lot shall have direct access to Nagawicka Road or Price Road.

2.25 GARBAGE AND REFUSE DISPOSAL

No Lot shall be used or maintained as a dumping area for trash, garbage, refuse or debris of any kind. All trash, garbage or waste materials shall be kept in sanitary containers either inside the garage or when outside in sanitary containers adjacent to the Home, suitably screened from view from streets and adjoining lots. Outside incinerators are not permitted.

2.26 WIRES AND ANTENNAS

(a) All utility wiring (including without limitation, service lines to individual dwellings) shall be installed underground unless otherwise permitted by the Committee prior to such installation.

(b) No external television or radio antennae, satellite dish, or other similar devices shall be erected without the prior approval of Committee.

2.27 FENCES, WALLS, DECKS AND RETAINING WALLS

No fence, wall, deck, or retaining wall of any height shall be permitted on any Lot except upon the prior approval of Committee. In no event, shall any fence or wall be permitted to extend into the minimum front setback line specified in paragraph 2.05. Generally, fences shall only be approved as barriers around swimming pools and such fences shall be suitably decorative in nature. Chainlink and privacy fences are not allowed. Fencing of entire yards is not allowed. Retaining walls shall be constructed of natural stone or wood timbers, unless an alternate material complements the overall landscape design of a lot in the discretion of the Committee.

2.28 MOTORIZED VEHICLES

All motorcycles, snowmobiles, trail bikes, dune buggies, offstreet motorized vehicles, watercraft, vehicles licensed as trucks and recreational or commercial vehicles of any kind shall be stored only in enclosed garages and shall not be operated on any Lot, driveway, parking area or common area within the Subdivision, except for purposes of ingress and egress.

2.29 VIOLATION OF DECLARATION: NO REVERSION OF TITLE

No violation or breach of any covenant, condition, restriction or other term or provision of this Declaration shall under any circumstance cause a reversion of title.

ARTICLE III-ARCHITECTURAL CONTROL COMMITTEE

3.01 MEMBERSHIP

So long as the Developer owns any lot or lots within the Subdivision, the Developer shall designate the persons (three in number) who shall from time to time comprise the membership of the Committee. Thereafter, upon sale by Developer of all lots within the Subdivision, the Committee shall be Thomas Taugher and Craig Jorgensen, or their heirs or assignees, and one additional lot owner selected by the remaining lot owners.

3.02 SUBMISSION FOR APPROVAL: PROCEDURE

(a) The decision of the Committee shall be final and binding upon all parties. The Committee may reject any improvement which, in its sole and absolute discretion, is not in conformity with these restrictions, is not desirable aesthetically or for any other reason. In passing upon such improvements, the Committee may take into consideration the suitability of the proposed improvement, its design, elevation and the materials of which it is to be constructed, its harmony with the surrounding lots and their improvements, or a view from the adjacent lots. The Committee shall have the right to waive minor deviations from these restrictions. Upon good cause being shown, the Committee shall have the right to waive or grant a variance from any provision of these restrictions.

(b) In the event the Committee or its designated representative fails to act upon any plans, specification or other written request 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 denied.

3.03 LIABILITY OF THE COMMITTEE

It is expressly understood and agreed that any standards established by, or any review or approval by Committee shall not be construed as a warranty or endorsement or representation by Committee of the fitness, suitability, or adequacy of any approved plans or standards for any particular use or purpose. It is understood (and agreed by any submitter to Committee) that Committee's members are unpaid volunteers, who shall not, in any event, be liable to any Lot Owner or other party for any act or thing or omission of or by the Committee.

ARTICLE IV - HOMEOWNERS ASSOCIATION

4.01 HOMEOWNERS ASSOCIATION - GENERAL

An incorporated owners association (herein referred to as the "Association") of the owners of land in Subdivision and all additions to and future phases of Subdivision shall be created for the purposes of maintaining the permanent common open space, common areas, entrance monuments, and any other common feature, and for purposes of performing such other functions and duties as may be appropriate for the common benefit of the Owners. The corporate name of the Association shall be Waterleaf Homeowners Association, Inc.

4.02 BOARD OF DIRECTORS

(a) The Association shall be governed by a three member Board of Directors, hereinafter referred to as the "Board" which shall be solely responsible for the activities of Association. The initial members of the Board shall be appointed by Developer.

(b) To qualify as a member of the Board, a person must be either an owner of a lot within Subdivision or a duly designated officer or representative of an Owner.

(c) So long as seventy percent (70%) or more of the lots in the Subdivision (as expanded) are owned by Developer, all three members of the Board shall be appointed by Developer. So long as thirty percent (30%) or more but less than seventy percent (70%) of the lots in the Subdivision are owned by the Developer, two members of the Board shall be appointed by Developer and one member shall be elected under the by-laws of the Association. So long as ten percent (10%) or more but less than thirty percent (30%) of the lots in the Subdivision are owned by Developer, one member of the Board shall be appointed by Developer and two members shall be elected under the by-laws of the Association. If less than ten percent (10%) of the lots in the Subdivision are owned by Developer, all of the members of the Board shall be elected under the by-laws of the Association.

(d) Lot Owners shall be entitled to a total of one vote per lot owned; and may vote in person or by proxy in elections for selecting members of Board.

(e) The term of office of the members of the Board shall be for three years, said terms being staggered such that the term of only one director shall expire in any given year. If any member of the Board shall die, resign, be unable to act or removed 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). The terms of office of the initial members of the Board shall commence upon their appointment and continue until December 31 of the year designated in the director's appointment for that director's term to expire so as to provide for

staggered terms as described above.

4.03 MEETINGS

All meetings of the Board shall be open to all Lot Owners and shall be held upon not less three (3) days written notice to all Owners as provided for in the Association's Bylaws. Two members of the Board shall constitute a quorum. Actions of the Board shall be majority vote.

4.04 DUTIES OF BOARD

(a) The Board shall have the following duties:

(1) To provide for the maintenance of all common areas, entrance areas, and monuments within Subdivision, together with snow removal from common areas or easement areas in the discretion of the Board, to comply with and ensure compliance with the terms and conditions of the Stormwater Management Facilities and Common Area Maintenance Agreement as recorded, the Wetland Monitoring Agreement, and any other covenant or agreement affecting the common area of the Subdivision, and for purposes of performing such other functions and duties as may be appropriate for the common benefit of the Owners.

(2) To levy and enforce collection of assessments and fees for the purposes herein set forth;

(3) To conduct meetings and establish procedures for the election of members of the Board;

(4) To establish operating procedures for the conduct of the Association and Board affairs; and

(5) To do all acts and things necessary to fulfill its duties and objectives; and

(6) To enforce the provisions hereof.

(b) The Board shall have the power to take such actions as may be necessary to cause the features and areas under Association's jurisdiction to be maintained, repaired, landscaped and kept in good, clean and attractive condition.

4.05 ASSESSMENTS

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 obligation. 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 liable for assessments (including lots added in 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 hereof.

(a) All assessments shall be approved at a duly convened meeting of the Board.

(b) 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.

(c) Assessments shall become due and payable 30 days after the mailing or personal delivery of the notice of Assessment.

(d) 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 all such sums 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.

(e) The Board may record a document with the Register of Deeds in Waukesha 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 notice shall not impair the validity or the lien. All recording and attorney fees relating to any such document shall be borne by the affected Lot Owner.

(f) Upon application by Owner, any member of the Board, may provide to such Owner a statement in recordable form certifying that (i) the signer is a duly elected or appointed member of the Board; and (ii) as to the existence of any unpaid assessments or other amounts due to the Association. Such statement shall be binding upon the Board 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.

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

(h) In the event the Association should fail to maintain any common area or element for which the Association is responsible therefor, the City may, but shall not be required to, undertake any such maintenance and shall thereafter be entitled to assess the cost of any such repair or remedial action against the Lot Owners as set forth herein, or in its discretion, to assess such cost against the Lot Owners as a special charge on the annual real estate tax statement.

(i) The Developer or the Association may allow a party to utilize the common areas of the Subdivision or to cause land owned by a party to be included in the subdivision with or without charge or liability for assessments, and subject to such other terms and conditions as the Developer and/or the Association may in their discretion set forth. Lots owned by members of the Developer shall be exempt from assessment.

4.06 LIABILITY OF BOARD MEMBERS

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

(b) Failure of the Association or the Board to enforce any provisions contained in this section shall not be deemed to be a waiver of the rights to do so, or an acquiescence in any subsequent violation.

ARTICLE V - MISCELLANEOUS

5.01 TERM OF DECLARATION

(a) This Declaration shall constitute a covenant running with the land and shall be binding for a period of fifty (50) years from the date the Declaration is recorded upon all Lot Owners and all other persons claiming under or through Developer. After the expiration of such initial fifty (50) year period, this Declaration shall be automatically renewed for successive periods of ten (10) years, unless there is recorded an instrument terminating this Declaration, executed by the owners of at least sixty percent (60%) of all lots subject hereto and the Park Department, in which event the Declaration shall terminate upon the expiration of the initial or renewal term then in effect at the time of the recording of such instrument of termination.

5.02 AMENDMENT TO DECLARATION

This Declaration may be amended at any time and in any respect by recording an instrument to that effect executed as follows:

(a) By the Developer only, so long as the Developer owns 70% or more of the Lots in the Subdivision (as expanded);

(a) By the Developer and the Owners of at least sixty percent (60%) of the lots in the Subdivision not owned by the Developer, so long as the Owners own more than 30% of the Lots in the Subdivision and the Developer continues to own any lot(s) in the Subdivision; or

(b) By the Owners of at least sixty percent (60%) of the lots subject to these restrictions following the initial conveyance by Developer of all lots subject to these restrictions.

No amendment may be made that would be contrary to City ordinances without approval of the City. No amendments of Sections 2.13, 2.14 or 2.16 may be made without permission of the City and the Park Department for Section 2.16.

5.03 ENFORCEMENT OF DECLARATION

Developer, City or any one or more Lot Owners, shall have the right to 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.

5.04 SEVERABILITY

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

5.05 FUTURE PHASES OF DEVELOPMENT OF WATERLEAF

For a period of ten (10) years from the date of the recording of this Declaration, the Developer, its successors and assigns shall have the right to bring within this Declaration future stages of Subdivision, provided such future stages are or become adjacent to (or separated by a road, highway or utility right-of-way from) the real estate which is or becomes subject to this Declaration or any Supplemental Declaration. The future stages authorized under this

