

Document Number

**Declaration of Protective Covenants
Fourth Addition to Bellhaven Plat**

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BELLHAVEN ESTATES, LTD.
a Wisconsin corporation

**DECLARATION OF
PROTECTIVE COVENANTS**

to

**FOURTH ADDITION TO
BELLHAVEN PLAT**

THE PUBLIC

RE: Lots 85 through 123 (hereinafter referred to individually as a "Lot" and collectively as the "Lots") and Outlot 6, Outlot 7 and Outlot 8 in the FOURTH ADDITION TO BELLHAVEN, in the Town of Algoma, Winnebago County, Wisconsin.

Bellhaven Estates, Ltd., a Wisconsin corporation (hereinafter the "Declarant"), being the owner of the above-described real estate hereby makes the following Declaration of Protective Covenants for the purpose of insuring the orderly and harmonious development of said real estate and imposing certain requirements, restrictions and limitations upon the use and occupancy thereof. The Protective Covenants imposed by this Declaration shall run with the land and be binding upon and inure to the benefit of all future owners of said real estate.

1. **Residential Use.** Each Lot shall be used for the construction of a single family residence and related improvements authorized by this Declaration. No portion of a Lot may be used for any business or commercial purpose with the exception of a home office; provided that there is no signage other than the signage authorized hereunder and the office is not used for meetings with clients, customers or other persons for business purposes. This paragraph shall not apply to any Outlot or Lot used for storm water detention or retention purposes.

2. **Dwelling Size.** The floor area of the living space of the residence totally above the exterior finish grade, exclusive of open porches and garages, shall be not less than:

(a) For a ranch style residence, one thousand eight hundred (1,800) square feet. A ranch style residence with a walk-out basement is permitted, but the floor area of the lower level shall not be counted for the purpose of this restriction.

(b) For a two story residence, a minimum of two thousand two hundred (2,200) square feet (with a minimum of one thousand six hundred (1,600) square feet on the first floor);

(c) For a split level residence, a minimum of two thousand (2,000) square feet on the first two levels. A split level residence with only one (1) elevation visible from the front or rear shall

be oriented so one (1) elevation is visible from the front and two (2) elevations are visible from the rear.

3. **Garages.** The construction of each dwelling shall include not less than a standard two (2) car attached garage. No garage may be more than thirty-six (36) feet in width.

4. **Storage Buildings.** No storage building, attached or unattached shed (temporary, permanent, portable or carport) shall be constructed on any Lot.

5. **Exterior of Buildings.** Any natural wood on the exterior of a residence shall be stained with a non-transparent stain or painted within one year of the commencement of the construction of the residence and no natural weathering exterior material, log or log siding shall be installed on any residence. The roof pitch of each residence shall be 6-12 or greater and all chimneys and exterior flues shall be enclosed. The Architectural Control Committee shall review and approve any roof color other than an earth tone color and any roof material other than asphalt or fiberglass shingles. A minimum of twenty percent (20%) of the front of each residence, excluding doors and windows, shall consist of brick, stone or another similar material approved by the Architectural Control Committee.

6. **Fences.** No fence shall be constructed on any Lot except a fence around an in-ground pool legally required and approved by the Architectural Control Committee or a fence surrounding an animal yard approved by the Architectural Control Committee.

7. **Location of Residence and Improvements.** The location of the residence and any other authorized improvements on the Lot shall comply with all setback requirements shown on the plat and imposed by applicable ordinances and regulations, unless a variance is received from the Architectural Control Committee and each municipality having zoning jurisdiction over the Lot.

8. **Pet Shelters.** All dog kennels or similar pet shelters shall be located within the garage and approved by the Architectural Control Committee. A fenced animal yard connected to the pet shelter may be authorized by the Architectural Control Committee.

9. **Driveways and Approaches.** All driveways shall be surfaced with concrete or asphalt within one (1) year from the commencement of construction of the residence. A concrete or asphalt approach connecting the driveway to the finished street shall be installed within six (6) months after the installation of the finished street.

10. **Basketball or Tennis Courts.** No basketball court or tennis court shall be permitted on any Lot. No basketball hoop attached to any structure shall be permitted. A pole mounted or portable basketball hoop adjacent to a driveway shall be permitted.

11. **Antennas, Satellite Dishes and Other Equipment.** No ham radio antennas, radio towers or similar equipment shall be permitted on any of the Lots. No satellite television antenna shall be located on any Lot if the diameter of the dish is in excess of eighteen (18) inches. No other mechanical or electrical equipment or apparatus which is larger than twenty-four (24) inches in height or eighteen (18) inches in width may be installed, operated or stored on any Lot without the prior written authorization of the Architectural Control Committee.

12. **Alternative Energy Devices.** No alternative energy device, such as solar panels or sun collecting devices, windmills or vertical wind turbans shall be allowed on any Lot.

13. **Above-Ground Pools/Spas.** No above-ground pools shall be permitted. An outside whirlpool tub or spa on a deck or patio adjacent to the residence may be permitted if approved by the Architectural Control Committee.

14. **Completion of the Residence.** The residence shall be completed in accordance with the plans and specifications approved by the Architectural Control Committee within one (1) year from the commencement of construction. The residence shall be deemed to be completed when an occupancy permit has been issued by the municipality having jurisdiction over the construction of the residence. A copy of the occupancy permit shall be filed with the Architectural Control Committee to evidence compliance with this requirement.

15. **Excess Excavation Dirt.** The Architectural Control Committee shall have the right to elect to have any excess dirt from any excavation deposited on any Lot or proposed Lot within the subdivision designated by the Architectural Control Committee at no expense to the Architectural Control Committee or the Declarant.

16. **Weed Control.** Prior to the installation of the lawn on the Lot, the Lot shall be mowed at appropriate intervals a minimum of two (2) times per year. One of the mandatory mowings shall be between June 1st and June 15th and the second mandatory mowing shall be between August 1st and August 15th.

17. **Landscaping.** The landscaping of each Lot shall be completed no more than twelve (12) months after the residence on the Lot is completed. All greenspace on the Lot must be landscaped using standard residential landscaping materials and a conventional grass lawn. No natural areas shall be permitted, except existing wooded areas and other natural areas approved by the Architectural Control Committee. At least five (5) shade trees with a minimum diameter of at least two (2) inches shall be retained on the Lot or planted within the time period specified above. At least two (2) of the trees must be located between the residence and the street. Any tree that dies shall be promptly replaced with another tree of at least the minimum size required by this paragraph.

18. **Exterior Maintenance.** The owner of the Lot shall maintain the exterior of the residence and all driveways and sidewalks in a good state of repair and shall properly maintain

all trees, shrubs and other landscaping. All grass clippings, fallen branches, brush and other yard waste shall be promptly removed from the Lot. No yard waste shall be placed on any vacant Lot, Outlot or common area. The owner of the Lot shall take reasonable precautions to avoid the transmission by surface water run-off of nutrients and pollutants such as pet waste, commercial fertilizers, herbicides, soil sediment and lawn clippings into any wetland or navigable waterway.

19. **Easements.** Easements for the installation and maintenance of drainage facilities, retention areas, utilities and cable television are reserved over the areas designated on the applicable plat and within the setback areas of each Lot. Easements for drainage facilities required by Declarant, Town of Algoma, Winnebago County are also reserved over the areas designated on the plat and the setback areas of each Lot. The actual location of such easements shall be determined at the time the utilities and/or drainage facilities are installed. No structure, planting or other materials shall be placed or permitted to remain in an easement area which may damage or interfere with the installation and maintenance of any utility, change the direction of flow in any drainage channel or obstruct or retard the flow of water in any drainage channel. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for improvements for which a public authority or utility company is responsible. The storm drainage and grading plan for each Lot shall be approved by the Town of Algoma and all owners shall comply with such plan. The Architectural Control Committee shall have the right, at any time, to determine the direction of the drainage flow and require the owner(s) to grade any drainage easement on a Lot accordingly at the expense of the owner(s); provided such determination does not conflict with the current drainage and grading plan on file with the Town of Algoma.

20. **Underground Utilities.** All gas, electrical, telephone, television and other utility lines or cables serving the subject Lots and the improvements located therein shall be laid underground.

21. **Signs.** No signs of any kind shall be displayed to the public view, except: (a) signs used by the developer or its realtor to advertise the sale of Lots; (b) signs used by a builder to advertise newly constructed dwellings for sale; or (c) one sign of not more than eight (8) square feet used by the owner of a Lot or a realtor to advertise the Lot and improvements for rent or sale.

22. **Nuisances.** No noxious or offensive activity shall be carried on upon any of the Lots, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

23. **Burning Restrictions.** No burning of garbage or other refuse shall be permitted on any Lot, Outlot or common area. The owner of a Lot may have a recreational fire on the Lot in a properly designed fire pit or fire container. The owner of a Lot may not have a fire on any Outlot, common area or Lot not owned by that owner. All authorized burning on a Lot shall comply with any regulations or requirements established by the Architectural Control Committee

or the municipality having jurisdiction over the Lot. The owner of a Lot shall be responsible for any damage caused by a fire originating on the Lot.

24. **Vehicle Restrictions.** No inoperable, partially dismantled, wrecked, junked, discarded or unlicensed motor vehicle shall be allowed to remain on any of the Lots outside of a building longer than seven (7) days. No commercial vehicles other than a pickup truck or standard sized van may be parked on a Lot or the adjacent street on a regular basis. The intent of the restriction contained in the previous sentence is to prohibit the presence of cargo vans, box trucks, semi-tractors, dump trucks and other large commercial vehicles whose presence detracts from the residential nature of the subdivision.

25. **Outside Storage of Certain Items Prohibited.** No construction or similar equipment; mobile home; motor home; camper; removable camper top; trailer; fishing shanty; boat on a trailer; personal water craft on a trailer; snowmobile on a trailer or other item of similar nature shall be permitted on any Lot for a period of more than two (2) weeks, unless kept in a garage completely enclosed.

26. **Animals.** No animals may be kept, raised or permitted on any Lot, except animals that are bona fide household pets and which are under complete control within the confines of the Lot or on a leash and which do not constitute a nuisance or inconvenience to other Lot owners. No dogs of the pit bull breed, including dogs partially of the pit bull breed, shall be permitted on any Lot. The person responsible for the animal shall collect and properly dispose of all animal waste deposited by the pet, including animal waste deposited on any Lot, Outlot or common area.

27. **Garbage/Recyclables.** Garbage that is not recyclable shall be kept in properly covered containers or inside sealed plastic bags. Newspapers, cardboard and other recyclables shall be sorted, stored and disposed of in the manner required by applicable recycling rules and regulations. Garbage and recyclables shall not be placed on the curb more than twenty-four (24) hours prior to the designated pickup time. All empty garbage cans and recycling containers shall be removed from the curb within twenty-four (24) hours of being emptied.

28. **Architectural Control Committee.** No structure or substantial improvement of any kind shall be erected, placed or altered on any of the Lots until the construction plans and specifications and plot plan showing the location of such improvements have been approved by the Architectural Control Committee as to color, type and quality of materials, quality of workmanship, location, height, grade, elevation and harmony of exterior design with the neighborhood, surrounding structures and existing topography.

- (a) Until such time as the plat of the final phase of the subdivision has been accepted, the Architectural Control Committee shall consist of two representatives of the Declarant and one representative of the Property Owner's Association. Following the initial sale by the Developer of all of the Lots in all of the proposed phases of

the subdivision, the Architectural Control Committee shall consist of one representative of the Declarant and two representatives of the Property Owner's Association. In the event of the death, resignation or removal of a member of the Architectural Control Committee representing the Declarant, the Declarant shall have full authority to designate the successor. In the event of the death, resignation or removal of a member of the Architectural Control Committee representing the Property Owner's Association, the Property Owner's Advisory Committee, as currently constituted, shall have full authority to designate the successor. The Architectural Control Committee shall have the right to delegate its authority to committees formed by the Architectural Control Committee or to the Property Owner's Advisory Committee. The Declarant may relinquish its right to representation on the Architectural Control Committee at any time.

- (b) At least ten (10) days prior to commencement of construction of any structure, or other substantial improvement on any Lot, one copy of the plans and specifications for the structure or improvement and plot plan showing the proposed location of such structure or improvement shall be submitted to the Architectural Control Committee. The Architectural Control Committee's approval or disapproval shall be in writing in a document which can be recorded and signed by one member of the Architectural Control Committee. In the event that a majority of the Architectural Control Committee fails to approve or disapprove the plans and specifications within thirty (30) days after receipt of same by any member of the Architectural Control Committee, approval shall not be required and this paragraph of these Covenants shall be deemed to have been fully complied with. The Architectural Control Committee shall retain one copy of all approved plans and specifications until construction is completed. The Architectural Control Committee shall have the right to grant a waiver with respect to the requirements of these Covenants for certain types or classes of structures, landscaping or improvements. Any action taken by a majority vote of the Architectural Control Committee shall be considered the act of the Architectural Control Committee.

29. **Property Owner's Association/Maintenance and Upkeep.** The Declarant and/or the owners of the existing Lots and the additional Lots included by the Declarant in any future phases of Bellhaven Subdivision shall form a Property Owner's Association (the "Association") for the purpose of: (a) owning certain common areas conveyed by the Declarant to the Association, and (b) maintaining the tennis courts, basketball court, walking trail, detention or retention ponds, signage, lighting and other common areas and facilities. The owner of each Lot shall automatically be a member of the Association and shall be obligated to abide by such rules and/or regulations as the Association may establish from time to time.

The Association shall be responsible for the maintenance, repair, upkeep and insurance of all common areas and facilities within the Bellhaven Subdivision. In the event the Association

defaults in its duty, the Declarant shall have the right to undertake any required maintenance, repairs or upkeep and to charge the cost thereof to the Association. In the event both the Association and the Declarant default in their duty, the Town of Algoma shall have the right to undertake any required maintenance, repairs or upkeep and to charge the cost thereof to the Association or to levy a proportionate share of such cost against each lot as a special assessment or charge on the real estate tax bill for such Lot.

30. **Property Owner Association Assessments.** The Association shall have the right to charge an equal share of all reasonable and necessary costs incurred by the Association to the owner(s) of each of the Lots included in the Association. The amount of the assessment shall be computed by dividing the cost for which the assessment is being made by the number of platted Lots existing at the time of the assessment. The assessments may be made on the basis of costs actually incurred by the Association or annually on the basis of a budget of the estimated costs for the following year. The Declarant, or its successor shall be responsible for the assessment for any Lot which is platted, but not sold. The assessment shall apply to all platted Lots, whether or not a residence has been constructed on the Lot. Notwithstanding anything contained in these Covenants to the contrary, the method of assessment shall not be amended so as to provide that the amount of the assessment on a Lot is increased over the amount determined under the foregoing method without the written consent of the owner(s) of all Lots receiving an increased assessment.

Any assessment not paid within thirty (30) days of billing shall bear interest at the rate of eighteen percent (18%) per annum, until paid. In the event a member of the Association is in default in the payment of any assessment for a period of more than thirty (30) days, the Association may bring suit to enforce collection of the delinquent assessment and all costs of such proceeding, including reasonable attorney's fees, shall be the responsibility of its member in default.

31. **Term, Amendments, Enforceability and Severability.** These Covenants shall run with the land and shall be binding upon and inure to the benefit of the owners of the Lots subject to these Covenants and all persons claiming under them for a period of twenty-five (25) years from the date these Covenants are recorded. Thereafter, these Covenants shall be automatically extended for successive ten (10) year periods, unless otherwise indicated in a written declaration signed by the then owners of a majority of the then existing Lots in the Bellhaven Subdivision and recorded in the office of the Winnebago County Register of Deeds. These Covenants may be amended in whole or in part at any time by a document signed by eighty percent (80%) of the owners of all of the existing and proposed Lots within the Bellhaven Subdivision and recorded in the Office of the Winnebago County Register of Deeds provided, however, no amendment shall relieve the Association of its obligations under Paragraph 29 or limit the right of the Association to levy assessments pursuant to Paragraph 30. The owner of any of the Lots or the Association shall have the right to enforce these Covenants by injunction or other lawful procedure and to recover any damages resulting from a violation thereof. The Association shall also have the right to impose a penalty of not more than fifty dollars (\$50.00) per day for each violation of these Covenants that continues after the owner of the Lot has received written notice of the violation and failed to cure the violation within the time specified

in the notice. The maximum penalty shall be increased annually by the greater of the percentage increased in the consumer price index or Two Dollars and no/100 Dollars (\$2.00). The invalidation of any portion of these Covenants by judgment or a court order shall in no way affect any of the other provisions, which provisions shall remain in full force and effect. The termination of these Covenants shall not result in the termination of, or otherwise affect, any other covenants, easements or restrictions affecting the Lots, including those of any other plat of which the lots become a part. Notwithstanding anything contained herein to the contrary, the provisions of Paragraphs 29 and 30 shall survive the termination of these Covenants.

32. **Future Phases.** The Declarant agrees to impose similar Covenants on all future lot developed by the Declarant within the Bellhaven Subdivision.

IN WITNESS WHEREOF, the undersigned have caused these Protective Covenants to be executed on 27 day of August, 2008.

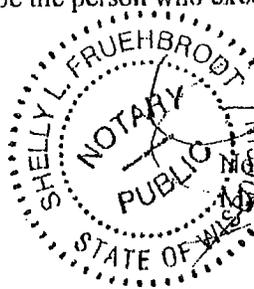
BELHAVEN ESTATES, LTD.

By: *Dennis E. Schwab*
Dennis E. Schwab

ACKNOWLEDGMENT

STATE OF WISCONSIN)
)SS
WINNEBAGO COUNTY)

Personally came before me this 27 day of August, 2008, the above-named Dennis E. Schwab, to me known to be the person who executed the foregoing instrument and acknowledged the same.

 *Shelly L. Fruehbrodt*
Notary Public, State of Wisconsin
commission: 9/28/08

This document was drafted by:
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