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**DECLARATIONS OF COVENANTS AND  
RESTRICTIONS FOR WILLOW CREEK HEIGHTS,  
LOTS 1 - 21 AND OUTLOT 1  
IN WATERTOWN, JEFFERSON  
COUNTY, WISCONSIN**

RECEIVED FOR RECORD  
at 9:45 o'clock A M

AUG 21 2003

*James E. Bender*  
Register of Deeds  
Jefferson County, WI

THIS DECLARATION of Covenants and Restrictions for Willow Creek Heights, a subdivision in the City of Watertown (the Subdivision), Jefferson County, Wisconsin, made this 18<sup>th</sup> day of August, 2003, by Jerry Schmidt Carpenter Contractor, Inc., a Wisconsin corporation (Owner), which is the owner of real property located in the City of Watertown, Jefferson County, Wisconsin, and more particularly described as follows:

**BENDER, LEVI & ASSOCIATES, S.C.**  
117 North Second Street  
P.O. Box 16  
Watertown, WI 53094-0016

Pin Nos.: see page 8

Lots 1 - 21 and Outlot 1 of Willow Creek Heights, pursuant to the plat recorded on July 31, 2003 in the Office of the Register of Deeds for Jefferson County, Wisconsin, in Volume 12 of Plats on Pages 60 and 60A, as Document No. 1129205.

These covenants are intended to enhance and protect the value, attractiveness, and desirability of the lots. For this reason, we declare and establish the following covenants and restrictions which shall run with the land as to each and every lot of the property described.

**I. LAND USE AND BUILDING TYPE**

No lot shall be used except for residential purposes. No building shall be erected, altered or permitted to remain in the Subdivision, other than a single-family dwelling not to exceed two stories in height with an attached garage for not less than two (2), nor more than three (3), automobiles.

**II. ARCHITECTURAL CONTROL**

No building shall be erected, placed or altered on any lot in the Subdivision until the building plans and specifications and a plan showing the location of the structure have been approved by an Architectural Control Committee, in writing, as to conformity and harmony of external design to the existing dwellings in the Subdivision, and as to location of the building with respect to topography, and finished ground elevation, and as to quality of workmanship and materials.

**III. ELEVATION OF BUILDINGS AND GRADING OF LOTS**

*OUR COPY*

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Each lot shall be graded to accommodate the elevations and the topography of the Subdivision so as to harmonize with the finished or proposed grade of adjoining lots and to blend with the street elevation. The final grade of each lot must provide drainage consistent with maintaining proper facilities to control storm water run-off onto adjacent properties and insuring that sediments do not enter the natural drainage system, so as not to restrict or otherwise disturb the free flow of surface water. The Architectural Control Committee shall approve all final grading plans.

#### **IV. DWELLING, QUALITY, AND SIZE**

The minimum ground floor living area for one-story dwellings shall be 1,450 square feet. The minimum size of a story and one-half home shall be 1,500 square feet of living area with a minimum of 1,100 square feet on the first floor. The minimum size of a two-story home shall be 1,800 square feet of living area with a minimum of 900 square feet on the first floor. The minimum size of a split level home shall be 1,800 square feet of living area with a minimum of 1,100 square feet on the upper level. The minimum size of a tri-level shall be 1,600 square feet of living area with a minimum of 1,100 square feet on the upper two levels combined. The minimum size of a bi-level shall not be less than 900 square feet per floor. All areas shall be exclusive of porches, breezeways, decks and garages. No log homes or earth homes shall be allowed in the Subdivision. Any dwelling consisting in whole or in part of concrete block or poured cement construction is to be covered with some suitable exterior, finished siding which shall not have an exterior of tar paper, simulated brick siding, or similar tar-based material. A minimum of 30% of the front side of the house shall be sided in natural materials such as wood, brick or stone, unless the Owner obtains prior written approval of the Architectural Control Committee. All driveways within the Subdivision shall be paved within two (2) years from the date of the commencement of construction with either concrete, asphalt or an equally hard surface. The exterior of every structure located in the Subdivision shall be completed, including finish painting and landscaping, within twelve (12) months of the date of the granting of an occupancy permit.

#### **V. CHIMNEY STRUCTURES**

Pre-fabricated chimney, chimney flues or concrete block chimneys must not be exposed on the exterior of any building within the Subdivision. Chimneys on sidewalls of buildings and extending above the roof-line must be covered with similar material and siding as the balance of the structure. Either sidewall decorative trim or roof decorative cover shall be subject to approval by the Architectural Control Committee.

#### **VI. TEMPORARY STRUCTURES**

No structure of a temporary character, trailer, basement, tent, camper, garage or outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently; nor shall any building be occupied until it has been substantially completed in accordance with the plans and specifications submitted to and approved by the Architectural Control Committee.



**VII. OUTBUILDINGS**

No outbuildings, such as detached garages or yard sheds, may be permitted on any lot within the Subdivision, except children's playhouses, jungle gyms and gazebos. No above-grade swimming pool will be permitted on any lot within the Subdivision.

**VIII. EXISTENT BUILDING**

No existent building, structure or dwelling shall be moved onto any parcel in the Subdivision.

**IX. CONSTRUCTION OF IMPROVEMENTS**

Within twelve (12) months from the date that any purchaser's deed is recorded, the purchaser shall commence construction on the property of a single-family residential dwelling which is in conformity with these covenants and restrictions, and shall have such residence ready for occupancy within nine (9) months of the commencement of construction. In the event of the purchaser's failure to comply with the provisions of this Article, the Owner may serve on the purchaser a written notice verifying the purchaser's breach of this Article. The purchaser shall have sixty (60) days in which to commence construction, and if the purchaser shall fail to remedy the breach by initiation of construction, the Owner may serve a written notice on the purchaser notifying the purchaser that title to the lot shall revert to the Owner upon the Owner's repayment, in full, of the original purchase price to the purchaser, after deduction for payment of any outstanding mortgage and/or real estate taxes without the necessity of any further action on the part of the Owner.

**X. OFFENSIVE ACTIVITIES**

No noxious or offensive activities shall be conducted on any lot in the Subdivision, nor shall any behavior be done which is an annoyance or nuisance to the residents of the Subdivision. No owner or subsequent purchaser shall, at any time, conduct or permit to be conducted on any residential lot any offensive trade or business of any description, commercial or non-commercial, other than home occupations.

The premises shall not be used for any other purpose whatsoever, except that of providing a private, single-family dwelling or residence for the owners of the lots in the Subdivision.

**XI. ENVIRONMENTAL LIABILITIES**

No owner, or their agent, guests, invitees, or employees, shall store or cause to be stored on any lot in the subdivision any hazardous substances or contaminants at any time. The owner of any lots in the Subdivision shall be liable to indemnify and hold harmless the owners of all the other lots in the Subdivision for any environmental liabilities, claims, lawsuits, or other

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matters caused by any act, default or negligence of the owner, their agent, guests, invitees, or employees. To the best of the knowledge of the developers and present owners of all the lots in the Subdivision, the premises do not contain any hazardous substances or asbestos as of the date of the recording of this instrument. No sign of any kind shall be displayed to the public view on any lot within the Subdivision, except that one professional sign of not more than two (2) square feet, one sign of not more than six (6) square feet advertising the property for sale, or all signs used by the developer to advertise the property during the construction and sales period, may be permitted, subject to the approval of the Architectural Control Committee.

#### **XII. SIGNS**

No sign of any kind shall be displayed to the public view on any lot within the Subdivision, except that one professional sign of not more than two (2) square feet, one sign of not more than six (6) square feet advertising the property for sale, or all signs used by the developer to advertise the property during the construction and sales period, may be permitted, subject to the approval of the Architectural Control Committee.

#### **XIII. FENCES AND WALLS**

All fences within the Subdivision shall not extend beyond the front setback line of the dwelling on the premises, nor be over fifty-four inches (54") in height. Walls or solid fences shall not be used. All swimming pools shall be surrounded by a suitable enclosure with a fence at least four (4) feet in height. Such fence must be constructed so as to prevent uncontrolled access by children from the street or adjacent properties to the swimming pool. All fence openings or points of entry shall be equipped with gates which are self-closing and have self-latching devices placed at the top one-fourth of the gate. No chain link fences shall be allowed in the Subdivision, except chain link fences used for animal containment purposes, may be acceptable, provided that they are located at the back of the house and have proper screening from neighbors and public view, upon prior written approval of the Architectural Control Committee. The specific prior written approval of the Architectural Control Committee shall be required for all fences.

#### **XIV. LIVESTOCK AND POULTRY**

No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot within the Subdivision, except that not more than two dogs and/or cats or other domestic household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose or provided that they do not annoy other residents of the Subdivision. Kennels or doghouses shall only be allowed with the prior written approval of the Architectural Control Committee. An owner or person having custody of any dog, cat or other animal shall not permit said dog, cat or other animal to defecate on any public street or on any private property within the Subdivision, other than the premises of the owner or person having custody of said dog, cat or other animal, unless said defecation is removed immediately by an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon the property owned or possessed by such person. This last provision shall not apply to a person who is visually or physically handicapped. Any person owning or possessing a dog, cat or other animal, may not permit such dog, cat or other animal to go upon any premises of any other



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lot owner within the Subdivision without the permission of the owner of such premises.

#### **XV. PARKING OF VEHICLES**

No semi-tractors or cabs, trucks, panel trucks, commercial vans or trucks, recreational vehicles, house trailers, mobile homes, travel trailers, boats and/or boat trailers, shall be stored or parked on any lot, except while parked in a closed garage and except while parked on any street within the Subdivision while engaged in deliveries to or from a residence within the Subdivision. For a period of two weeks per calendar year, recreational vehicles, boats and/or boat trailers may be allowed to be parked on any lot within the Subdivision.

#### **XVI. STORAGE TANKS**

Underground storage tanks or elevated tanks for the dispensing of propane, fuel oil, gasoline, diesel fuel or any other hazardous material shall not be erected or placed within the Subdivision.

#### **XVII. SNOWMOBILES AND ATVS**

No snowmobile, motorized off-street bike, all terrain vehicle or other such vehicle shall be operated within the Subdivision.

#### **XVIII. UTILITY EASEMENTS**

All lines or wires for telephone, power, cable television, or otherwise, shall be placed underground, and no such wires shall be shown on the exterior of any building, unless the same shall be underground or in a conduit attached to a building. Television towers, radio antennas, and satellite television reception dishes in excess of eighteen inches (18") diameter, shall not be allowed to be erected upon any lot within the Subdivision. Locations of utility easements for installation of underground conduits are designed in the original plat for each lot and utility services for each lot shall be installed upon such reserved areas.

#### **XIX. GARBAGE AND REFUSE DISPOSAL**

Trash, garbage, recyclables and other waste material shall be kept in sanitary containers. Containers used for storage and disposal of such materials shall be kept in a clean and sanitary condition, and shall be suitably screened from view from the street and adjacent dwellings. No burning or incineration of garbage or waste materials, including yard materials, shall be allowed in the Subdivision. Trash, garbage or other waste materials shall be disposed of by each lot owner at least once weekly, either by contract carrier or pursuant to regulations adopted by the City of Watertown, from time to time.

#### **XX. WATER AND SEWAGE FACILITIES**

Water supply and sewage disposal facilities and equipment shall comply, in every respect, with requirements, standards

and recommendations of the Division of Health, Department of Health and Social Services of the State of Wisconsin, and the City of Watertown. Every lot shall include the installation of water and sewer laterals in conformity with existing plans for the Subdivision and City of Watertown.

#### **XXI. ARCHITECTURAL CONTROL COMMITTEE**

The initial Architectural Control Committee shall be composed of Daniel L. Schmidt, Janet J. Schmidt, and Patrick J. Wiesner. The Committee may designate a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. Neither the members of the Committee, nor its designated representatives, shall be entitled to any compensation for services performed pursuant to these covenants and restrictions. The written approval of the Architectural Control Committee shall be required for any general construction contractor other than Jerry Schmidt Carpenter Contractor, Inc. After the Subdivision has been fully developed and the construction on all lots completed, the original Architectural Control Committee shall be disbanded.

#### **XXII. PROCEDURE**

The Architectural Control Committee's approval or disapproval as required in these covenants shall be in writing. Any lot owner within the Subdivision or perspective lot owner may bring a matter before the Architectural Control Committee. Any such matter should be in writing, and be accompanied by plans, sketches, diagrams and written description. In the event the Committee or its designated representative fails to approve or disapprove any plans or specifications within six (6) months after such plans and/or specifications have been submitted to it, approval will be presumed to have been granted, and the related covenants shall be deemed to have been fully complied with by the respective lot owner.

#### **XXIII. TERM**

These covenants are to run with the land, and shall be binding upon all the parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive ten (10) year periods, unless an instrument signed by the majority of the then owners of the lots in the Subdivision has been recorded, agreeing to change said covenants in whole or in part.

#### **XXIV. ENFORCEMENT**

The Architectural Control Committee or any owner within the Subdivision may enforce these covenants and restrictions by proceedings in law or in equity against persons violating or attempting to violate any provision of these restrictions and covenants, either to restrain violation or recover damages. The failure to promptly enforce any provision of these restrictions and covenants shall not be a defense against the subsequent enforcement of such a provision.

#### **XXV. MODIFICATION**

The covenants, conditions, reservations and restrictions created and established in this instrument are for the benefit of the



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Subdivision, and each such lot therein. These covenants, conditions, reservations and restrictions may be waived or terminated with the written consent of the owners of two-third (2/3) of the lots in the Subdivision. No such waiver, termination or modification shall be effective until the proper instrument in writing shall be executed and recorded in the Office of the Register of Deeds for Jefferson County, Wisconsin; provided, however, that this provision shall have no application so long as the Grantors shall be the owners of fifty percent (50%) of the lots in the Subdivision. As long as the Grantors are the owners of more than fifty percent (50%) of the lots in the Subdivision, they do reserve the right to change or cancel any or all of the covenants, conditions, reservations or restriction set forth in this instrument, if in their sole judgment, the development or lack of development of adjacent property makes that course of action necessary or advisable.


#### XXVI. SEVERABILITY

Invalidation of any one of the covenants herein contained shall not effect any of the other covenants which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned, being the owners of the lands described herein, have caused this Declaration to be executed this 18<sup>th</sup> day of August, 2003.

JERRY SCHMIDT CARPENTER CONTRACTOR, INC.

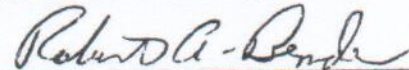
By:

  
Janet J. Schmidt, President

#### ACKNOWLEDGMENT

STATE OF WISCONSIN )  
                              : SS  
JEFFERSON COUNTY )

Personally came before me this 18th day of August, 2003, the above named Janet J. Schmidt, to me known to be the person(s) who executed this foregoing instrument and acknowledge the same.

  
Robert A. Bender  
Notary Public, State of Wisconsin  
My commission is permanent.

This instrument was drafted by:  
Attorney Robert A. Bender