

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR THE PLAT OF CITYVIEW 2ND ADDITION**

This Declaration is made this 13 day of April, 2023, by ACS RBHS, LLC, a Wisconsin limited liability company, and its successors in interest or assigns (the "Developer").

RECITALS:

- A. The Developer is the owner of certain lands in the City of Horicon, Dodge County, State of Wisconsin, described as Lots One (1) through Thirteen (13) and Lots Fifteen (15) through Nineteen (19) (individually a "Lot" and collectively the "Lots"), Plat of Cityview 2nd Addition (the "Plat") (the Lots being collectively referred to as the "Development"), a copy of which Plat is attached hereto as Exhibit A.
- B. The Development has been zoned PUD and R-1 pursuant to the City of Horicon and Dodge County Ordinances.
- C. Lots Fifteen (15) through Nineteen (19) are capable of division to allow construction of two residences with a common wall on the Lot line ("Duplexes"). Once divided each newly created parcel will create a new Lot and will be included in the Lots count.
- D. The Developer desires to subject the Development to the conditions, restrictions, covenants and reservations set forth below, which shall encumber the development of each Lot, and shall bind the successors in interest, any owner thereof, and the owner of any interest therein.
- E. The Plat represents Phase I of a two Phase development. The second phase will consist of more single family homes and/or Duplexes ("Second Phase"). In the event the Developer moves forward and develops Phase II all references to the Developer owning a Lot or Lots within this Declaration of Covenants shall include all lots that Developer owns within Phase II.

NOW THEREFORE, Developer declares that the Development and each Lot thereof shall be developed, used, held, sold, and conveyed subject to the conditions, restrictions, covenants and reservations set forth below, which shall inure to the benefit of, and encumber the Development and each Lot thereof, and run with the land, and shall bind the successors in interest, any owner thereof, and the owner of any interest therein.

ARTICLE 1

STATEMENT OF PURPOSE

The general purpose of this Declaration is to help assure that the Development will become and remain an attractive place to live; to insure the most appropriate improvement of each Lot and to guard against the erection thereon of poorly designed or poorly proportioned structures.

E-RECORDED simplifile[®]
ID: Document No 1336371
County: Dodge
Date: 5/3/2023 Time: 8:57AM

Recording Area
Name and Return Address
ACS RBHS, LLC
353 Forest Grove Dr, Ste 105
Pewaukee, WI 53072

ARTICLE 2
GOVERNMENT RESTRICTIONS

This Development is subject to existing zoning and use restrictions imposed by Dodge County and the City of Horicon, as well as other statutes and regulations imposed by any other governmental units collectively referred to in this Declaration as the "Government Restrictions". If there is any conflict between any restriction set forth in this Declaration and any Government Restriction, the more restrictive restriction shall apply. No improvements in the Development shall be constructed without first obtaining the approval of the Architectural Control Committee (the "Committee") created hereunder or the Developer if such Committee shall not exist and all other local authorities having approval requirements under Government Restrictions. All owners acknowledge the City of Horicon and Dodge County may require, prior to issuing a building permit for any improvements upon any Lot, that the owner of the Lot grant easements, if none are in existence already, along the side Lot lines to the City of Horicon, to other public utilities, and to the Developer as necessary for drainage and stormwater purposes, for the placement of underground pipes, wiring, cables, conduits and other utility facilities and equipment.

ARTICLE 3
DEVELOPER AND COMMITTEE APPROVALS

3.1. Establishment; Duties; Membership.

(a) Creation. There shall be an Architectural Control Committee, which shall have the rights and obligations set forth in this Declaration for the Committee and any powers necessary to exercise those rights. The Committee shall not replace, but rather shall supplement, any review and approval necessary under any Government Restriction.

(b) Composition. The Committee shall initially consist of James Hartung and Stephen Black until Developer no longer owns any Lot within the Development. So long as Developer owns at least one Lot within the Development there shall be no meetings of the Committee. If at any time, Developer shall no longer own a Lot, or choose not to act, the Committee shall then consist of three (3) Lot owners appointed by a majority vote of the Lot owners. After construction is complete each Duplex Lot may be subdivided into multiple new Lots. Any Duplex Lot further subdivided shall be a Lot for purposes of this declaration. Each Lot shall be entitled to one (1) vote. In the event of any temporary or permanent vacancy prior to the date on which all Lots in the Development are developed, Developer shall, within sixty (60) days of the vacancy, appoint a new member to fill the vacancy on the Committee. A member of the Committee may resign by submitting a written resignation to the Committee.

(c) Duties. No improvements of any kind or nature, including, but not limited to, buildings, outbuildings, walls, fences, landscaping, grading, or alterations to the Lot, shall be made constructed or erected upon a Lot, and no exterior alterations shall be made to any of the improvements unless, and until complete plans and specifications for the proposed improvements as set forth in Section 3.2 (the "Plan" or "Plans") shall have been submitted to the Developer for delivery to the Committee. The Committee may grant approval, grant approval with conditions, or deny with reasons, within thirty (30) days after delivery of the Plans. If the Committee fails to grant approval, in writing, within the thirty (30) day period, the Committee's approval shall be deemed to be denied. The 30-day period shall not begin until three (3) complete sets of Plans have been received by the Developer. The foregoing shall not be construed to prohibit necessary and appropriate maintenance activities.

(d) Committee Procedure. Following submission of Plans to the Developer in the manner provided above, the Developer shall forward one set of the Plans to each member of the Committee for review. Each member of the Committee shall communicate in writing to Developer such member's approval, disapproval or approval subject to conditions. Failure of any Committee member to respond to Developer within seven (7) days of the date a set of Plans has been delivered to such member shall constitute approval by such member. The Committee shall act by a majority of its members. If approval by a majority of the Committee members is subject to conflicting conditions, the owner shall have the option of negotiating a settlement, in writing, of the conflicts with the Committee members or of calling a meeting of the Committee, or the conflicting members, to resolve the conflict, if necessary.

3.2. Plans and Documents. The Plans to be submitted to the Developer for delivery to the Committee shall include, at a minimum:

(a) Plans and specifications showing building construction details, to scale, showing dimensions and square footages, of all proposed:

- (i) Buildings, roof mounted equipment, walls and fences,
- (ii) Flag poles, outdoor lighting, fountains, works of art, and outbuildings,
- (iii) Sidewalk, entry, and driveway locations,

(b) Proposed elevations, to scale, of all structures, colors and building materials.

(c) A detailed site plan, to scale, showing both existing and finished grades, and showing all details and information required under the Government Restrictions including:

- (i) Existing Lot lines and easements,
- (ii) Proposed improvements, including any future expansions,
- (iii) Site lighting with height, spacing, design and illumination characteristics,
- (iv) Locations of all proposed and existing utilities including sanitary and storm sewers, water, electric, gas and telephone,
- (v) Locations of all proposed connections, transformers, meters, boxes, and switch fuse units.

(d) Construction details and site plans, to scale, showing all:

- (i) Erosion control measures to be used both before, during and after construction.

(e) Landscaping and lighting Plans to scale, showing all:

- (i) Proposed plantings, showing locations, sizes, and species.

(f) Such other materials, samples, and plans as the Developer, or the Committee, may deem necessary in order to render their decision.

3.3. Developer Rejection. The Developer and Committee shall each have the right to reject any Plans which, in the judgment and sole opinion of the Developer or the Committee, as the case may be:

- (a) Do not conform to any of the covenants or restrictions in this Declaration;
- (b) Are not desirable for aesthetic reasons;
- (c) Do not conform to the general purposes of this Declaration; or
- (d) Are incomplete, lacking in sufficient detail, or inadequate in any respect.

3.4. Developer Address of Record. Until such time as notice is recorded of a change of address, all plans, applications for approval, and requests of any nature, or for any reason, should be sent to the Developer at:

ACS RBHS, LLC
Attn: James Hartung
353 Forest Grove Drive, Suite 105
Pewaukee, WI 53072

3.5. Developer and Committee Liability. Neither the Developer, nor the Committee or any of its members shall be liable for damages to any party submitting a request for approval, or liable for damages to any owner of any Lot by reason of:

- (a) Any action, failure to act, approval or lack of approval with regard to any such requests;
- (b) The construction or performance of any work, whether or not pursuant to approved plans or specifications;
- (c) The failure of any Plans approved by the Developer and/or the Committee, or improvements constructed pursuant to such Plans, to comply with any applicable Government Restrictions; or
- (d) The development of any property within the Development.

3.6. Variances. The Developer and the Committee shall have the power and absolute discretion to authorize a variance from any of the requirements contained within this Declaration if it finds that the strict application thereof would, in its sole discretion and opinion, cause undue hardships to any owner, or for any other reason. Notwithstanding any variance granted by the Committee, the owner of any Lot shall at all times comply with all Government Restrictions.

ARTICLE 4

DESIGN OBJECTIVES

4.1. General. The design objectives for all building architecture and site layout within the Plat are to create an attractive residential setting that sets high standards for quality and excellence in building design, site layout and sustainable construction methods.

4.2. Design Guidelines. Improvements shall comply with the following minimum standards:

(a) They shall be designed by a licensed architect or engineer. No side, elevation or façade of a building or structure is exempt from public view, consequently, all sides, elevations or facades of all buildings and structures shall be architecturally and aesthetically compatible with the surrounding environment. All homes shall be of the single family detached or duplex structures of traditional ranch style or traditional two-story style.

(b) All mechanical, electrical or solid waste and recycling containers, shall either be architecturally screened from view using materials identical to, or structurally and visibly compatible with, the main buildings or structures on the site, or shall be landscape screened in accordance with Article 5.

4.3. Ancillary Structures. Ancillary structures must be used in connection with the principal use of the site and not for an independent purpose, be in architectural and aesthetic conformance with other building(s) or structure(s) on the site, and be properly screened and meet all requirements of this Declaration. No building or structures of a temporary nature may be constructed on any site except construction sheds in use during construction. Such sheds shall be promptly removed upon completion of construction.

4.4. Utilities. All utilities serving a site shall be installed underground.

4.5. Construction Deadline. Construction of any structures or other improvements on a Lot, once commenced, shall be diligently pursued to their final completion, and no delays in construction longer than thirty (30) days shall be allowed, subject to delays occasioned by acts of God, weather, seasonal considerations, casualty, war, civil disturbance, shortage of materials, strike, government restriction, or other reasons not within the control of the owner. All construction shall be completed within one (1) year of commencing construction. All construction shall be initiated within three months of the initial purchase of a Lot in the event Developer sells a lot to a unrelated party to construct a home. .

ARTICLE 5

LANDSCAPING

5.1. Landscaping Plan. The landscaping upon any building site or Lot shall be carried out and maintained in accordance with a detailed landscaping plan which has been reviewed and approved by the Committee, as provided in Article 3, and all governmental approving authorities, and shall comply with the substantive requirements of this Article.

5.2. Landscaping Methods. Landscaping may include grading, earth berms, seeding, sodding, raised planters, architectural decorative walls or fencing, trees and shrubs, ground cover and other landscape materials including permanent sprinkling systems, foundations, storm run-off retention ponds, reflective ponds and landscape lighting.

5.3. Plant Material. Selected plant material should provide for a variety of shade trees, evergreen trees and shrubs, ornamental trees and shrubs and ground covers. Plant material selections shall take into consideration the following:

- (a) Disease and insect resistance.
- (b) Hardiness to the area.

- (c) The ability to provide seasonal interest.
- (d) Future maintenance considerations.

5.4. **Maintenance.** Except as provided in Article 8, the owner shall be responsible for maintaining the Lot and all landscaping as approved on the original plan for its Lot. Landscaped areas, gardens, materials, fixtures, and improvements shall be maintained by the owner of the Lot in good condition at all times. Such maintenance shall include weeding, watering, trimming, pruning, repairing, planting, transplanting, treating, and other common landscape maintenance activities. Lot owners shall use reasonable diligence to keep Lots reasonably free of weeds, leaves, branches, and other natural debris as well as paper, cans, empty storage containers and other trash debris.

5.5. **Screening.** Landscape materials planted, located and oriented for the primary purpose of screening an ancillary structure or appurtenance or storage shall be of sufficient size to immediately screen a minimum of fifty percent (50%) of such structure or area and be of a plant type that will provide full screening within three (3) years from time of planting.

ARTICLE 6 USE RESTRICTIONS

6.1. **General Use Provisions.** Uses in the Development shall be limited to single-family, owner-occupied residential uses on Lots One (1) through Thirteen (13) and zero-lot line owner-occupied residential duplex units on lots Fifteen (15) through Nineteen (19). No renting of improvements on any Lot shall be allowed at any time. The foregoing restriction shall not apply to improvements located on Lots owned by the Developer.

6.2. **Refuse Disposal.** Refuse disposal shall be in sanitary containers, screened from public view in a fashion approved by the Developer and the Committee and in accordance with the City of Horicon standards. No Lot or any part of a Lot may be used for the dumping or storage of rubbish, trash, garbage, building materials, yard waste (leaves, grass clippings or debris), rocks, earth or other waste materials except as set forth above.

6.3. **Antennae.** To the extent permitted by law, antennae or antennae systems greater than 24" in diameter are strictly forbidden without the express written authorization of the Committee. This restriction includes exterior television, radio receiving or transmission antennae, satellite signal receiving dishes, cellular or digital telephone antennae systems, and microwave radio towers, dishes, or antennae.

6.4. **Vehicles.** Standard private passenger vehicles, including passenger vans are permitted on Lots provided they bear current license plates and are in operating condition. No inoperable, unlicensed, dilapidated, severely rusted, unpainted or junk vehicles of any nature may be kept upon any Lot except in a fully enclosed garage. Any vehicle maintenance and repair work of any nature may not take place on or in front of said Lots except in the rear of the Property or in an enclosed garage. The storage of service vehicles owned or operated by residents of the home and/or boats, trailers, travel trailers, campers or recreational vehicles of any nature is prohibited on any Lot, except in an enclosed garage. The temporary storage of such vehicles in the front yard for the purpose of loading or unloading for a period not to forty-eight (48) hours is permitted. Recreational vehicles shall not be used or operated on any Lot. No automobiles, trucks or other vehicles shall be parked on lawns at any time.

6.5. Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot. Conventional household pets are permitted subject to the condition that the pet(s) is/are not allowed to unreasonably annoy and/or disrupt the normal residential occupancy of the neighborhood or constitute a hazard to public health or safety. No animal enclosure, house, pen or fences or similar device shall be placed upon any Lot without the prior written approval of the Committee and shall require special landscaping and screening.

6.6. Easements/Drainage. No structure, planting or other materials shall be placed or permitted to remain within any easement of record which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easement. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible. No drainage swale shall be graded or obstructed so as to impede the flow of water from other Lots through such swale.

6.7. Nuisances. No noxious, odoriferous or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance which may have a material detrimental effect on the value of other Lots. Noxious activities include those that tend to offend people acoustically, olfactorily or visually according to common traditions as to acceptable social norms.

6.8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

6.9. Signs. All signs intended for display on any Lot, including real estate signs, and those employed by builders in connection with their respective sales and leasing programs, shall be subject to the approval of the Committee. The Developer may erect permanent signage at the entrance to the Property if it so chooses.

6.10. Firewood Storage. Firewood or wood piles kept outside a structure, shall be neatly stacked, placed in a side yard and screened from street view by plantings or an approved fence.

6.11. Mailboxes. All mailboxes shall be of the type and style determined by the USPS and shall be uniform in appearance with all other mailboxes in the Plat. The Developer and USPS shall determine the location of mailbox placement. Damaged mailboxes shall be promptly repaired and replaced as necessary.

6.12. Exterior Maintenance. Upon the owner's failure to maintain the exterior of any structure in good repair and appearance the Association may, at its option, after giving the owner six (6) months written notice, make repairs and improve the appearance in a reasonable and workmanlike manner. The cost of such maintenance referred to above shall be assessed against the Lot upon which such maintenance is done and shall be added to and become part of the monthly maintenance assessment or charge to which such Lot is subject under Article 8 hereof. For the purpose solely of performing the maintenance referred to above, the Committee through its duly authorized agents or employees shall have the right after reasonable notice to the Lot owner, to enter upon any Lot at reasonable hours on any business day.

6.13. Visual Changes to Exteriors of Property. Changes in the visual appearance of the exteriors of structures and the Lots on which they are situated shall not be made until approval, in writing, has been secured from the Committee.

6.14. Required Actions Upon Damage to Property. Damage to a structure on a Lot shall be repaired or reconstructed in accordance with its appearance prior to such damage within ninety (90) days of the damage.

6.15. Hot Tubs/Spas. Exterior hot tubs/spas shall be located in rear yards and shall not be visible from any street. Hot tubs/spas shall not exceed a dimension, if round of 72" in diameter and if square of 76" by 76". Above ground swimming pools shall not be permitted in the Plat.

6.16. Fences. No chainlink fences shall be permitted anywhere in the Plat. The location and type of any fence or wall must be approved by the Committee under the landscaping plan under Article 5 and must be constructed with materials approved by the Committee. Any such fence must comply with all applicable governmental requirements and ordinances and must be of a decorative style. No fence or wall shall be permitted in the front yard of any residence. In regards to the Duplex lots the front yard shall be considered the yard facing the cul-de-sac. No solid wood fence, stockade fence, privacy fence or chain link shall be permitted, and no fence shall be more than four feet in height unless approved by the Committee.

6.17 Berm Preservation Zone Restrictions. A Berm Preservation Zone (BPZ) is located on the rear portion of Lots 6-13 as shown on Exhibit A. The BPZ has been planted with native materials including trees, shrubs, grasses, wildflowers, and groundcovers, which require little to no maintenance. To maintain a uniform appearance of the BPZ, and to prevent erosion and damage to existing plant material, activities within the BPZ shall be restricted as follows:

(a) Permanent markers have been placed along the southern edge of the BPZ, which shall be maintained and remain undisturbed and shall be immediately repaired or replaced by the Lot owner on which the marker is located if broken or removed.

(b) The BPZ shall remain undisturbed and in a natural state indefinitely.

(c) No temporary or permanent principal or accessory buildings, structures, paving, walls, fences, flag poles, or other improvements, shall be permitted within the BPZ.

(d) Storage of any type of material in the BPZ is prohibited.

(e) A fence or wall, if approved by the Committee may be erected along the boundary of the BPZ, provided the fence or wall and all above- and below-ground supports are located entirely outside of the BPZ.

(f) No drainage alterations, grade changes, excavations or fill is permitted.

(g) The adding, removal, or alternation of plant materials shall be prohibited with the exception of removing and replacing dead, dying, diseased, damaged, invasive materials, or weeds. Replacement plant materials shall be similar in type, size, number, and location to the original material and may be temporarily braced or fenced to protect them. Trees and shrubs may be pruned as necessary to remove dead branches and promote the health of the plants, but mowing, threshing, or burning of grasses, wildflowers, and ground covers is prohibited.

(h) Lot owners may walk on their part of the BPZ in a manner that minimizes damage to the plant materials. Chairs, tables, grills, fire pits, tents, bicycles, toys, water slides, other recreational equipment, and motorized vehicles of any type are prohibited.

(i) Dog runs, chicken coops and other forms of animal confinement are prohibited. Pets on a leash of six feet or less are permitted.

(j) Each Lot shall adhere to all other provisions set forth in the recorded Covenants.

(k) Each Lot owner shall be informed of the rules and regulations of this section upon any sale of Lot 6-13.

(l) The rules and regulations set forth in this section 6.17 shall not be altered, replaced, or removed without a majority action made in writing of the then Lot 6-13 owners, which also would require approval of the Horicon City Council. Amendments proposed by the Developer shall require approval of the Horicon City Council.

(m) Enforcement of these restrictions shall be as provided per section 8.5 of these Covenants and Restrictions.

ARTICLE 7 MISCELLANEOUS PROVISIONS

7.1. Amendment by Owners. This Declaration may be amended at any time by an instrument duly executed by the owners of at least 75% of the Lots. If the Developer at the time of the proposed amendment holds any interest in any Lot or if any Lot in the Development is not fully improved, no such amendment shall be effective unless executed by the Developer. Developer's approval may be withheld at its sole, absolute and unrestricted discretion. Any amendments shall take effect only upon recording.

7.2. Severability. Invalidation of anyone of these covenants by judgment or court order shall in no way affect any other provisions, which other provisions shall remain in full force and effect.

7.3. Nonforfeiture. Any violation of these restrictions shall not result in a forfeiture or reversion of title to any Lot.

7.4. Term. This Declaration shall continue and remain in full force and effect at all times with respect to all property, and each party thereof, now or hereafter made subject thereto (subject however to the right to make Amendments hereto), until June 1, 2052. However, if, within one (1) year prior to June 1, 2052, unless there shall be recorded an instrument directing the termination of these Covenants signed by owners of not less than 75% of the Lots then subject to these Covenants, as in effect immediately prior to the expiration date, they shall be continued automatically for a period of thirty (30) years thereafter and for successive periods of thirty (30) years, unless within one (1) year prior to the expiration of any such period, the Covenants are terminated as set forth herein.

7.5. Enforcement. The Developer or the Committee, or as appropriate, any owner of a Lot, Dodge County, and the City of Horicon shall have the right to enforce by any proceedings at law or in equity any and all restrictions, conditions, covenants, and regulations herein. Failure to enforce shall not be deemed a waiver of any right to enforce in the future.

7.6. Attorneys' Fees. If any suit of action is brought to enforce the provisions of this Declaration, the party who prevails in such action or suit shall be entitled to recover its court costs and attorney's fees from the other party.

7.7. Assignability of Developer's Rights. The Developer shall have the right, by recording a written instrument of assignment, to assign all of its rights to act as "Developer" under this Declaration to any other person, in which case upon recording of the assignment, the person to whom such rights have been assigned shall be the "Developer" for all purposes whatsoever under this Declaration.

EXHIBIT A

PLAT

[To be attached]



