

**DECLARATION OF RESTRICTIONS, EASEMENTS  
AND PROTECTIVE COVENANTS  
FOR STORY HILL PLACE SUBDIVISION**

Story Hill Investments, LLC, a Wisconsin limited liability company, hereinafter referred to as the “Developer,” owner of the following real property described in Exhibit A attached hereto (the “Project”) hereby makes the following Declaration of Restrictions, Easements and Protective Covenants (“Declarations”) so as to declare limitations, restrictions and uses to which the property constituting the Project may be put, hereby specifying that said declarations shall constitute covenants to run with all of the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations upon all future owners in the Project, this Declaration being designed for the purpose of keeping the Project desirable, uniform and suitable in architectural design and use as herein specified.

**ARTICLE 1  
DEFINITIONS**

**1.1 Definitions.** The following terms shall have the definitions set forth below:

1.1.1 **Architectural Committee.** The “Architectural Committee” shall mean the architectural control committee for the Subdivision.

1.1.2 **Builder.** The “Builder” shall mean Story Hill Investments, LLC, or such other builders and contractors which shall contract with Developer to construct the improvements within the Project and such term shall also include all subcontractors, representatives and agents retained by Developer for construction of the Project improvements.

1.1.3 **City.** The “City” shall mean the City of Milwaukee.

1.1.4 **City Code.** The term “City Code” refers to the City of Milwaukee Code of Ordinances and any applicable rules and regulations.

1.1.5 **Common Area.** The “Common Area” shall mean all areas within the Subdivision that are not designated as lots.

1.1.6 **Developer.** The “Developer” shall mean Story Hill Investments, LLC, a Wisconsin limited liability company.

1.1.7 **Homeowners Association.** The “Homeowners Association” shall mean the Homeowners Association for the Subdivision, the members of which shall be all of the Lot Owners. The Homeowners Association shall be governed by the Committee and be organized as a non-stock corporation pursuant to Chapter 181 of the Wisconsin Statutes.

1.1.8 **Interim Committee.** The “Interim Committee” shall mean the initial governing committee for the Homeowners Association.

1.1.9 **Landscape Plan.** The “Landscape Plan” shall mean the landscape plan prepared by the Developer and approved by the City for the Project.

1.1.10 **Lot.** “Lot” shall mean each separate parcel of land delineated on the Subdivision Plat and designated for one single family residence.

1.1.11 **Lot Owner.** “Lot Owner” shall mean the owner of one or more Lots whether or not such Lot contains an existing structure.

1.1.12 **Master Grading Plan.** The “Master Grading Plan” shall mean the grading plan prepared by the Developer and approved by the City for the Project.

1.1.13 **Model Plans.** The “Model Plans” shall mean the exterior elevations and building foot print as shown on the Elevations and Site Plan attached hereto as Exhibits A-1, PL-1 through PL-6, and L-1.

1.1.14 **Project.** The “Project” shall mean the Story Hill Place development which is the entire tract of land described on Exhibit A attached hereto and incorporated herein.

1.1.15 **Subdivision.** The “Subdivision” shall mean all of the property constituting the Project.

1.1.16 **Subdivision Plat.** The “Subdivision Plat” shall mean the final plat of the Subdivision approved by the City and recorded with the register of deeds. A copy of the Subdivision Plat is attached hereto as Exhibit B.

**ARTICLE 2**  
**SUBDIVISION BUILDING RESTRICTIONS**

**2.1 Single Family Residences.** No Lot within the Subdivision shall be used for other than single-family residence purposes. There shall not exist on any Lot at any time more than one residence. No individual Lot shall at any time be divided for the placement of an additional structure.

**2.2 Exterior Design Criteria.** The following exterior design criteria shall apply to the residential buildings constructed on the Lots.

2.2.1 Model Plans. A single family residence shall be constructed on each Lot in accordance with one of the six Model Plans for the Project. The Model Plans consist of the following six home designs: Tudor #1, Bungalow #1, Bungalow #2, Tudor #2, Charleston #1 and Colonial #1. Only one residence in the Subdivision shall be built using any one Model Plan. The residence build on Lot 1 shall use the Tudor #1 Model Plan. The residences built on Lots 2 through 6 may use the Model Plan chosen by the Lot Owner on a first come, first serve basis, provided that such Model Plan has not already been selected by another Lot Owner. The residences shall be placed on the Lot in accordance with the set backs as shown for such Model Home on the Site Plan attached hereto as Exhibit L-1. Any material variation from the Model Plans shall require the prior written approval of the Architectural Committee and the City’s approval of an amendment to the Detailed Planned Development (“DPD”) ordinance for the Project. Any Unit Owner desiring to obtain such approval and amendment to the DPD ordinance shall pay all costs, including but not limited to the Developer’s costs, in connection therewith, whether or not such approval and amendment is obtained.

2.2.2 Grade and Height. Home foundation grade for each Lot shall be established by the Developer and the City Engineer and no building shall be constructed

which is in violation of the established grade height. No building shall exceed 30 feet in height. First floor elevation shall be not less than 18 inches, nor more than 36 inches, above grade as established by the Developer.

2.2.3 Construction Materials. The exterior construction materials shall be the materials as described on the Model Plans. Roof shingles shall be tile, slate, cedar shake or asphalt dimensional shingles (over 240# weight). Building exteriors shall be standard size masonry brick, stucco, hardyplank or cedar siding, as indicated on the Model Plans. Windows shall be wood frame. Exterior building colors must be approved by the Architectural Committee. The use of energy efficient building materials and technologies is encouraged, but ultimately will be left up to the decision of the Lot Owner.

**2.3 Interior Design.** With the exception of the garage, which shall be as shown on the Model Plans, the dimensions and layout of interior rooms within each residential building shall be designed by a registered architect, engineer or experienced residential designer selected by the Lot Owner, and at the Lot Owner's cost, subject to the approval of the Architectural Committee. All first floors shall have a ceiling height of nine (9) feet. Each home shall have not less than three (3) bedrooms and two (2) full bathrooms, a living room, kitchen and dining room.

**2.4 Out Building Restrictions.** No trailer, tent, shed, barn, temporary building, outbuildings, or guesthouse shall be erected on any of the Lots in the Subdivision. Tree houses shall not be permitted.

**2.5 Construction.** Prior to commencement of construction of a home, the final plans and specifications shall be approved in writing by the Architectural Committee. Construction shall be completed within one (1) year of the issuance of the building permit. In extraordinary circumstances, an extension may be obtained from the Architectural Committee. No structure of a temporary character, tent, or garage may be used as a residence and no house or travel trailer shall be parked outside on any Lot. All structures shall be painted with at least one coat of paint, unless constructed of ornamental masonry, brick, or other finished surface. Front and side yard landscaping shall be completed within one year after house construction is commenced, and shall be in accordance with minimum requirements of the Architectural Committee.

**2.6 Driveways and Approaches.** All driveways shall be located as shown on the Site Plan and shall be paved with concrete or asphalt within one (1) year of occupancy as required by the City, provided, however, that the driveway area between the curb and the edge of the sidewalk farthest from the street shall be concrete and shall be completed before issuance of the occupancy permit unless otherwise allowed by the City building inspector. Walkways to front door of house shall be concrete, stone or brick.

**2.7 Fences.** No boundary wall or fence shall be constructed on the West side of the Lots or along Bluemound Avenue. Subject to Architectural Committee approval, privacy fences or hedges in the back of a Lot with a maximum height of six (6) feet, and side Lot fences (except on the north side of Lot 1) with a maximum height of four (4) feet, may be constructed. All such fences shall be made of wood. No chain link fences shall be allowed. All fences shall otherwise comply with the City Code. No fence of any height shall be constructed on any Lot until after the height, type, design, and approximate location thereof shall have been approved in writing by the Architectural Committee. The heights or elevations of any fence shall be measured from the existing elevations of the property at or along the applicable points or lines. No fence shall be installed on a Lot line, but must be within the Lot of the Lot Owner who owns such fence.

**2.8 Landscaping.** Each Lot shall contain at one or more shade tree of the type and in the location as shown on the Landscape Plan. Such shade trees, at the time of planting, shall have a diameter of at least two (2) inches at ground level. In the event a tree dies, another shade tree is to be planted within six (6) months. The yard of each Lot shall also contain shrubs and plantings as shown on the Landscape Plan. Additional planting beds may be installed on a Lot subject to prior written approval of the Architectural Committee. All landscaping, including grass sodding/seeding constituting a permanent lawn, shall be completed within one year after the construction of the house is commenced. The Lot Owner's Lot landscaping shall not alter the yard grade as shown on the Master Grading Plan and the Lot survey.

**2.9 Solar Devices, Antennas, Satellite Dishes.** Solar devices shall be screened from street view. Satellite dishes shall not exceed 2 feet in diameter and shall be installed in the side or rear yard, subject in all events to Architectural Committee approval. Antennas shall not be permitted.

**2.10 Mailboxes.** Lot Owners shall install a mailbox selected by the Developer. The Lot Owner shall bear the cost of such mailbox. Each Lot Owner shall maintain his or her mailbox unless such maintenance is assumed by the Homeowners Association.

**2.11 Swimming Pools and Spas.** No above ground or in-ground swimming pools shall be allowed on any Lot. A spa, hot tub or whirlpool may be permitted subject to Architectural Committee approval and provided that such spa, hot tub or whirlpool shall be enclosed by a fence and located not more than five (5) feet from the house.

**2.12 Approval of Plans.** The Developer or Architectural Committee, hereinafter designated, shall have the right to approve all buildings, structures, and other improvements placed on each Lot, and all alterations and additions to same, for the purpose of insuring development of the Subdivision as an area of high standards. In addition, the Developer or Architectural Committee shall have the right to make exceptions to these restrictions when deemed necessary and proper in order to promote Subdivision conformity and harmony.

**ARTICLE 3**  
**ARCHITECTURAL CONTROL COMMITTEE**

**3.1 Architectural Control Committee.** The Developer, its successors or assigns shall have the right to appoint, substitute and/or remove the members of the Architectural Committee. The Architectural Committee is composed of 3 members. In the event of death or resignation or removal of any member of the Architectural Committee, the Developer shall have full authority to designate a successor until such time as said Architectural Committee ceases to exist. The Architectural Committee members shall not be liable for any action taken or decision made by them in good faith while discharging their duties hereunder, even if such action involves a mistaken judgment or negligence by the member, agent or employees of the Architectural Committee.

**3.2 Owner Obligations.** Each Lot Owner, by acceptance of title to such Lot Owner's Lot, covenants and agrees that no building, wall, fence, sign, solar device, satellite dish, or other structure or improvement shall be placed upon such Lot unless and until the plans, specifications, and site plan or survey showing the location, dimensions, colors, construction materials, and

existing and proposed grades of same, are approved in writing by the Architectural Committee. In addition, Lot Owners must obtain Architectural Committee approval for any alteration or addition to existing improvements. Lot Owners shall obtain a construction permit, when required, from the City before commencing any such construction. Architectural Committee approval shall be based upon, but not limited, to the following considerations:

3.2.1 external design and aesthetics

3.2.2 avoidance of repeat elevations

3.2.3 quality of construction materials

3.2.4 proposed location of improvements in relation to setbacks, topography of Lot, finish grade elevation, drainage patterns and sales

3.2.5 harmony with design, materials, colors, quality of surrounding neighborhood

3.2.6 conformity with design requirements of this Declaration.

**3.3 Time for Approval or Disapproval.** If no Architectural Committee exists, such approvals shall be provided by the Homeowners Association Committee. If the Architectural Committee or Homeowners Association Committee, as the case may be, shall fail to approve or disapprove the plans and specifications within sixty (60) days after written request, then such approval shall not be required; provided that no building or other structure shall be erected which violates any of the Covenants herein contained.

**3.4 Zoning and Building Code Requirements.** Neither the Architectural Committee nor the Homeowners Association Committee shall verify zoning or building code limitations or requirements, or knowingly approve a project that violates the City Code or the code of any other governmental agency or entity that is applicable to the project. Neither the Architectural Committee, the Homeowners Association Committee, nor the Developer shall be responsible for plan conformance to any criteria other than the design criteria set forth in this Declaration.

**3.5 No Liability.** Neither the Architectural Committee, the Homeowners Association Committee, nor the Developer, nor any member of any of these entities, shall be liable in damages or otherwise to any person submitting plans or specifications for approval, or to any Lot

Owner, by reason of mistake in judgment, negligence or non-feasibility, failure to approve or disapprove any such plans or specifications, or for any liability, injury, damage, loss, claim, cost or expense caused by any improvements constructed from such plans or specifications.

**ARTICLE 4**  
**COVENANTS REGARDING USE AND MAINTENANCE**

**4.1 Covenants Regarding Use and Maintenance.** The Lots and the homes built thereon shall be used and occupied in accordance with the Articles of Incorporation and Bylaws of the Homeowners Association, and the rules and regulations adopted by the Homeowners Association from time to time, and the provisions of this Declaration, including the following.

4.1.1 Signs. No sign of any kind shall be displayed to the public view on any Lot, except:

4.1.1.1 One Professional Sign - not more than one (1) sq. ft. (However, no home occupation signs will be permitted in any window in this development.)

4.1.1.2 One For Sale Sign - not more than two (2) sq. ft.

4.1.1.3 One Political Sign - not more than six (6) sq. ft. that endorse candidates for public office. Political signs shall not be erected more than 45 days prior to an election and shall be removed within seven (7) days following the election.

Notwithstanding the foregoing, signs by the Developer or Builder may be installed as per City Code or requirements during the entire development, construction, or sales period. All signs shall be professionally lettered and mounted.

**4.2 Drainage Condition Inspection Rights.** The Developer, Builder, City Engineers and Inspectors shall have the right to enter upon any Lot, at any time and from time to time, for the purpose of inspecting drainage conditions resulting from Lot Owner landscaping.



**4.3 Nuisances.** No noxious, offensive, or dangerous activity of any kind may be conducted upon any Lot which is or may become a nuisance or annoyance to the neighborhood.

**4.4 Garbage, Trash or Refuse Disposal.** No Lot shall be used as a dumping ground for rubbish. Trash, garbage, and other waste shall be kept in sanitary containers, which shall be screened from public view.

**4.5 Exterior Maintenance of Premises.** Lot Owners shall maintain their premises in good repair and clean condition. This shall include repainting of structures and fences, repairing of drive and walk surfaces, and stacking of firewood.

**4.6 Lawn and Yard Maintenance.** In addition to normal maintenance and mowing of lawn areas on a Lot, Lot Owners shall also maintain the sidewalk, lawn and yard area in front of the Lot from the property line (front Lot line) to the back of the curb and gutter section or shoulder of the public roadway. Each Lot Owner shall keep this area, along with the rest of his/her lawn, free of debris and noxious weeds. Trees, shrubs, and plantings shall be kept neatly trimmed. Lot Owners of vacant Lots shall keep such Lots free of debris and noxious weeds. The City shall have the right, but not the responsibility, to remove weeds or otherwise maintain any such vacant Lot and charge the cost thereof to the Lot Owner if such Lot Owner fails to perform such weed removal or other maintenance within ten (10) days after receiving written notice from the City stating that the City will perform such weed removal or other maintenance and charge the cost thereof to the Lot Owner if the Lot Owner fails to do same within ten (10) days.

**4.7 Animals.** No animals may be kept or maintained upon any Lot except dogs, cats or other usual and ordinary household pets. Such animals shall not be kept, bred, or maintained for any commercial purpose. Pets are not permitted on any part of the Common Area while unattended and the individual attending such pet shall immediately dispose of any and all of the pet's solid waste in a manner as prescribed by the Homeowners Association, which shall promulgate further rules of pet ownership consistent with the City Code. Notwithstanding anything to the contrary herein, possession of pets shall not be considered a property right.

**4.8 Vehicle Storage and Repair.** No trucks or commercial type vehicles, boats, trailers, or recreational vehicles shall be stored or parked on any Lot except while parked in a closed garage, nor parked on any residential street in the Subdivision except while engaged in transporting to or from a residence in the Subdivision. No Lot Owners or other occupants of any portion of the Subdivision shall repair or restore any vehicle of any kind upon any Lot, except within enclosed garages or workshops. Emergency repairs shall be completed only to the extent necessary to enable the movement thereof to a proper repair facility.

**4.9 Parking.** No parking shall be permitted on the private road located in the Subdivision, and outdoor parking shall be permitted only on the pads located outside the garages attached to the homes. Additional parking restrictions not inconsistent with this paragraph may be provided in the By-Laws and the rules and regulations of the Homeowners Association.

**4.10 Home Occupations.** The use of a Lot or building thereon for business or commercial purposes may be prohibited or restricted by the Bylaws and rules and regulations of the Homeowners Association, and shall in all events be subject to the City Code.

## **ARTICLE 5**

### **UTILITY AND DRAINAGE EASEMENTS**

**5.1 Utility Easements.** Utility easements are hereby reserved for the purpose of installing and maintaining municipal and public utility facilities (i.e. installation of underground service lines for electric, telephone and cable television), and for such other purposes incidental to the development of the Project. These easements are shown upon the plat of the Project, as recorded in the Register of Deeds of Milwaukee County, Wisconsin. Prior to acceptance of all improvements by the City, Developer reserves the right to grant public utility easements for utility purposes over, upon, under or across all Lots in this Project, whether owned by the Developer or third parties. Such easements shall, so far as is reasonably possible, and with the exception of the natural gas main easement, be confined to areas within approximately 20 feet of all Lot lines and be granted on standard utility forms. The Developer also reserves the right to grant easements to the Homeowners Association and the City for the purpose of maintaining the Common Areas.

**5.2 Maintenance of Easements.** The owners of all Lots upon which easements, culverts, storm water retention ponds or drainage swales are located are responsible for cleaning and maintaining the easement for its intended purpose. Drainage swales and retention ponds shall not be manipulated or altered in any way so as to impede, divert, or restrict the flow of water from its intended path as determined by the Master Grading Plan.

**5.3 Repair of Easements.** Except as may be provided in any agreement between the Developer and the City, Lot Owners shall be responsible for the restoration or repair of any damage caused to an easement area by a utility company, the City, or Developer during construction/repair operations occurring after such Lot is purchased by a Lot Owner. Easement construction/repair operations include, but are not limited to:

- 5.3.1 Sanitary Sewers
- 5.3.2 Storm Sewers
- 5.3.3 Water Mains/Laterals
- 5.3.4 Electric Installations
- 5.3.5 Cable TV Installations
- 5.3.6 Telephone Installations
- 5.3.7 Curbs and Sidewalks
- 5.3.8 Drainage Swales
- 5.3.9 Storm Water Retention Ponds

**5.4 Damage Claims.** All claims for damages, if any, arising out of the construction, maintenance, and repair of improvements in utility easements or on account of inconveniences caused thereby, against the Developer, or any utility company or municipality, or any of its agents or servants, are hereby waived by the Lot Owners.

**ARTICLE 6**  
**GRADING AND DRAINAGE**

**6.1 Project Grades.** Master Project grading/surface drainage, erosion control, and home grade plans were prepared by the Developer and accepted by the City Engineer pursuant to the Master Grading Plan. Copies of the Master Grading Plan are available for Lot Owners' examination in the office of the Developer, and in the offices of the City Engineer and City Building Inspector. The Master Grading Plan designates the manner in which each Lot shall be finish graded and drained in relation to all other Lots in the Project.

**6.2 Setting of Home Grade Elevation.** The grade elevation of a home to be constructed on a Lot shall be obtained from the City Engineer and included with the Building Permit issued by the Building Inspector. Construction of the home shall comply with the City approved grade elevation. No deviation therefrom shall be permitted without the City Engineer's approval.

**6.3 Filling in and Removing.** The elevation or grading of a Lot shall not be changed, nor may rock, gravel, or clay be excavated or removed from any property for any purpose without the prior approval of the Architectural Committee. The Developer shall have the right to use any dirt removed or excavated.

**6.4 Developer Grading Responsibilities.** The Developer shall be responsible for the maintenance of all Lot grades to provide drainage during the time of Project development and prior to the sale of an individual Lot.

**6.5 Lot Owner Grading Responsibilities.** Lot Owners are responsible for grading their Lot in conformance with the Master Grading Plan and the grades shown on their individual Lot survey. If required by the City, Lot Owners shall provide the City Engineer with verification from a registered land surveyor or engineer, that their Lot is properly graded and conforms with the Master Grading Plan. From that time forward, nothing shall be done which will alter the plan, or impede, or obstruct the flow of surface drainage water.

**6.6 Lot Erosion Control.** The Developer has installed silt fences (or other erosion control devices such as hay bales) at various locations within the Project as required by the approved erosion control plan, or as ordered by the City. Lot Owners are required to maintain these erosion control devices until such time as turf cover is restored in all disturbed areas. Any additional erosion control measures ordered by the City after Lot Owner occupancy shall be at the expense of the Lot Owner.

**6.7 Drainage.** The maintenance of all drainage swales shall be initially invested with the Developer. This responsibility shall revert to the Lot Owners upon issuance of an occupancy permit.

**ARTICLE 7**  
**HOMEOWNERS' ASSOCIATION**

**7.1 Homeowners Association.** The Developer shall establish a Homeowners Association, as a non-stock corporation under Chapter 181 of the Wisconsin Statutes, for the purpose of maintaining the Subdivision for the common benefit of all Lot Owners, which shall be formed no later the sale of the first Lot. The Homeowners Association shall be known as the "Story Hill Place Homeowner's Association" hereinafter referred to as the "Homeowners Association." Each Lot Owner shall be a member of the Homeowners Association and one vote shall exist for each Lot. If title to a Lot is held by more than one person, the vote relating to such Lot may not be split but must be voted as a single vote as provided in the Homeowners Association Bylaws. Membership in the Homeowners Association shall pass with title to each Lot and shall not be separated from the Lot to which it appertains. Any deed, mortgage, or other instrument purporting to transfer the ownership of a Lot without including membership in the Homeowners Association shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

**7.2 Organization.** The Homeowners Association shall be governed by the members of the Architectural Committee, hereinafter referred to as the "Interim Committee." The Interim Committee shall be solely responsible for the activities of the Homeowners Association until such time that all Lots are sold. When all Lots are sold, a committee of three (3) members, each

of whom shall be a Lot Owner, (the “Committee”) shall be elected in accordance with Section 7.3, below.

**7.3 Committee Election by the Homeowners Association.** An election to select members of the Committee shall be held after all Lots have been sold. Once the Committee is elected, the Interim Committee shall relinquish responsibility for all activities of the Homeowners Association.

**7.4 Term of Office; Vacancies.** At the initial election of the Committee under Section 7.3, above, one member shall be elected to a three (3) year term, one member shall be elected to a two (2) year term, and one member shall be elected to a one (1) year term. At the expiration of such initial terms, all members of the Committee shall be elected to a term of three (3) years. After the initial election of the Committee, subsequent elections shall take place as provided in the Homeowners Association Bylaws. If any member of the Committee shall die, resign, be unable to act or cease to be qualified to be a member, such vacancy shall be filled as provided in the Homeowners Association Bylaws.

**7.5 Committee Duties.** The Committee shall have the following duties as representatives of the Homeowners Association:

7.5.1 Manage the affairs of the Homeowners Association in accordance with this Declaration and the Homeowners Association Bylaws;

7.5.2 Develop operating procedures for the conduct of the Homeowners Association and Committee’s affairs;

7.5.3 Act in the best interest of the majority of Homeowners in the Subdivision;

7.5.4 If applicable, contract with a waste disposal service for such service that is consistent with the needs of the Subdivision;

7.5.5 Perform the functions of the Architectural Committee under Article 3 of this Declaration;

7.5.6 Adopt an annual budget and charge each Lot Owner an annual assessment for the costs incurred by the Homeowners Association in performing its functions and responsibilities hereunder and under the Homeowners Association Bylaws, including but not limited to the costs of maintaining the Common Area;

7.5.7 Obtain and maintain comprehensive general public liability insurance for occurrences on the Common Areas of the Subdivision including areas which are included in such definition by virtue of easements granted herein and with respect to liability of the Committee and Homeowners Association members as the Committee deems necessary or advisable;

7.5.8 Maintain the Common Area as provided in this Declaration and the Homeowners Association Bylaws;

7.5.9 If so determined by a majority vote of the Lot Owners, perform maintenance on the Lots, including but not limited to snow and ice removal from sidewalks and driveways, lawn mowing and maintenance, planting and maintenance of flower beds, and repair and resurfacing of sidewalks and driveways, in which case the Committee and its agents and contractors shall have an easement over and on the Lots for the purpose of providing such repair and maintenance.

**7.6 Committee Authority.** The Committee shall have the following authority in addressing Homeowners Association responsibilities:

7.6.1 To enter into contracts to employ agents, attorneys or others for purposes of discharging its duties and responsibilities hereunder;

7.6.2 To levy and collect assessments in accordance with Section 7.7, below.

**7.7 Assessments.** The Committee shall levy and collect assessments in accordance with the following:

7.7.1 Each Lot shall be subject to an annual assessment, and such special assessments as the Committee deems necessary from time to time, for the purpose of

paying the costs incurred by the Homeowners Association in performing its duties and discharging its obligations. Each Lot shall be liable for one sixth (1/6) of any such annual or special assessment.

7.7.2 Costs covered by the assessment shall include, but not be limited to, payment of taxes, if any, waste disposal, insurance, maintenance, repair, replacement or additions to the Common Area, cost of labor, materials, administration, supervision and management thereof. All costs the Homeowners Association reasonably incurred in conducting its affairs and enforcing the provisions of this section shall also be covered by this assessment.

7.7.3 Assessments shall be approved at a duly convened meeting of the Committee.

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

7.7.5 Assessments not paid when due shall bear interest at the rate of twelve percent (12%) per annum 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 they have 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.

7.7.6 The Committee may record and document with the Register of Deeds in Milwaukee 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 such notice shall not impair the validity of the lien. All recording and attorney fees relating to any such document shall be borne by the affected Lot Owner.

7.7.7 Upon application by any Lot Owner, any member of the Committee may, without calling a meeting of the Committee, provide to such Lot Owner a statement in



recordable form certifying (1) that the signer is a duly elected or appointed member of the Committee; and (2) as to the existence of any unpaid assessments or other amounts due to the Homeowners Association. Such statement shall be binding upon the Committee 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 Homeowners Association.

7.7.8 Any lien for assessment may be foreclosed by a suit brought by the Committee, acting on behalf of the Homeowners Association, in a like manner as the foreclosure of a mortgage on real property.

**7.8 Committee Liability.** Members of the Committee shall not be liable for any action taken or decision made by them in good faith in discharging their duties hereunder, even if such action involves a mistaken judgment or negligence by the member or agents or employees of the Committee. The Homeowners Association shall indemnify and hold the members of the Committee harmless from and against any and all costs or expenses, including reasonable attorney's fees, in connection with any suit or other action relating to the performance of their duties hereunder except upon a court finding of gross negligence or willful misconduct on the part of any such member. In the event of settlement of such proceeding, indemnification shall be provided only in connection with such matters covered by the settlement as to which the Homeowners Association is advised by counsel that the person to be indemnified has not been guilty of gross negligence or willful misconduct in the performance of such person as a member of the Committee. This right of indemnification shall be in addition to all of the rights and defenses. All liability, loss, damage, cost and expense, including actual attorneys' fees incurred or suffered by the Homeowners Association in connection with this indemnification shall be a common expense and assessed upon each member of the Homeowners Association.

**7.9 Waiver.** The Homeowners Association and each member acting both for themselves and for their respective insurers hereby waives, any right it or they may have against the other for any loss insured under any policy obtained by either to the extent of insurance proceeds actually received, however the loss is caused, including such losses as may be due to the negligence of the other party, its agents or employees. All policies of insurance shall contain a provision that they are not invalidated by the foregoing waiver, but such waiver shall cease to

be effective if the existence thereof precludes the Homeowners Association from obtaining any policy of insurance at a reasonable and customary rate.

**7.10 Lot Owner Violation - Homeowners Association Right to Cure.** In addition to any other remedies provided herein, if any Lot Owner fails to comply with this Declaration, which failure continues for a period of fifteen (15) days following written notice from the Homeowners Association, the Homeowners Association shall have the right, but not the obligation, to perform or cause to be formed, such maintenance, replacement, restoration or other action as the Homeowners Association deems necessary or appropriate. Expenses incurred therefore by the Homeowners Association shall be assessed against the Lot Owner and shall be subject to all rights and remedies reserved under this document with respect to collection, expense, late payment penalties or interest, filing of a lien and/or foreclosure as reserved in this document.

**7.11 Homeowners Association's Failure to Enforce.** Failure of the Homeowners Association or the Committee to enforce any provision contained in this Declaration, upon the violation thereof, shall not be deemed to be a waiver of the rights to do so, or an acquiescence in any subsequent violation.

## **ARTICLE 8** **COMMON AREAS**

**8.1 Use of Common Area.** Lot Owners shall have the right to use and enjoy the Common Area as provided hererin. Such rights and privileges of Lot Owners to use and enjoy the Common Area shall be subject to this Declaration and such rules and regulations as shall be adopted from time to time by the Homeowners Association acting through its Committee.

**8.2 Private Road.** The private road shown on the Subdivision Plat shall be a Common Area. Non-exclusive easements are hereby granted and declared for the benefit of the Lot Owners and the Homeowners' Association for ingress and egress to and from the Lots over the private road.

**8.3 Damage by Lot Owner.** Each Lot Owner, at such Owner's sole cost, shall repair and replace any portion of the Common Area damaged through the fault or negligence of such Owner or the fault or negligence of such Owner's family, guests, invitees or tenants. Or, in the event that such damage is repaired or restored by the Homeowners Association, such Owner shall indemnify the Homeowners Association for all repair costs including actual attorneys' fees or other costs incurred by the Homeowners Association to enforce such Owner's indemnification obligation hereunder.

**8.4 Maintenance of Common Area.** The Common Area shall be owned by all Lot Owners as tenants in common, and the deed for each Lot shall be deemed to include with the conveyance of such Lot an undivided percentage interest in the Common Area. Notwithstanding such ownership, the Homeowners Association shall have exclusive management and control of the Common Area, and shall maintain, repair and replace the Common Area and improvements thereon. Such maintenance shall include, but not be limited to, removal of snow and ice from the private road.

**8.5 Enforcement of Restrictions.** The restrictions and covenant contained herein may be enforced by proceedings at law or in equity against any person or persons violating or attempting to violate the same. It shall be lawful for any Lot Owner, the Committee, the Condominium Association, or governmental body having authority over the Subdivision, to prosecute such action. The judgment in any such proceedings, in addition to providing for remediation of the violation, shall provide that the party found in violation of this Declaration shall pay to the prosecuting party or parties their reasonable and proper attorney fees and expenses.

**8.6 Conflicts of Covenants and Restrictions with Municipal Ordinances.** In the event of any conflict between these covenants and restrictions and zoning or building ordinances or regulations of the City, or the State of Wisconsin, compliance with the more restrictive provision shall be required.

**8.7 Severability/Invalidity.** Invalidity of any provision of this Declaration, regardless of how determined, shall in no way nullify or affect any of the other provisions, which shall remain in full force and effect.

**8.8 Amendments to Declaration.** This Declaration may be changed, modified, or amended at any time by written Declaration setting forth the change. Such amendment shall become effective if executed by the owners of at least sixty-six percent (66%) of all Lots in the Subdivision with all signatures notarized and upon recording in the office of the Register of Deeds for Milwaukee County. The Developer's consent to the change shall be required as long as the Developer owns any Lot. Such consent shall be evidenced by execution of the amending Declaration by the Developer.

**8.9 Amendments by the Developer.** As long as the Developer owns any Lot, the Developer shall have the right, acting alone to:

8.9.1 Amend, alter, or modify these restrictions if required by the City or any other governmental agency;

8.9.2 Amend, alter or modify these restrictions, if such proposed change is nonmaterial in character and in the best interest of the Subdivision;

8.9.3 Until sixty-six percent (66%) of the Lots are sold, amend, alter or modify these restrictions.

**8.10 Agreement to Terms.** By acceptance of a conveyance of property which is subject to this Declaration, the grantee, mortgagee, or transferee thereof acknowledges, accepts and agrees to each and every term, right, duty and obligation herein contained and confirms in and grants to the Developer, its successors and assigns, the right of enforcement of this Declaration as aforesaid.

**8.11 Duration.** The covenants, conditions and restrictions of this Declaration shall run with the land and bind the land for a term of twenty (20) years from the date this Declaration is

recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2006.

STORY HILL INVESTMENTS, LLC,  
a Wisconsin limited liability company

By: \_\_\_\_\_

\_\_\_\_\_  
Name and Title  
STATE OF WISCONSIN     )  
  ) ss  
MILWAUKEE COUNTY     )

Personally appeared before me this \_\_\_\_ day of \_\_\_\_\_, 2006 the above-named \_\_\_\_\_, of Story Hill Investments, LLC, to me known to be the person who executed the foregoing instrument and to me known to be such \_\_\_\_\_ of said limited liability company and acknowledged that he executed the foregoing instrument as such officer.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission:\_\_\_\_\_

This instrument was drafted by:

Kevin L. Keeler, Esq.  
Beck, Chaet & Bamberger, S.C.  
Two Plaza East, Suite 1085  
330 East Kilbourn Avenue  
Milwaukee, WI 53202  
(414) 273-4200

**EXHIBIT A**

**Description of Property**

(see attached)