

Document Number

Document Title

ORIGINAL

DECLARATION OF RESTRICTIONS
FOR
TREE TOPS SUBDIVISION

Recording Area

№

KNOW ALL PERSONS BY THESE PRESENTS; that TREETOPS DEVELOPMENT, LLC is a Limited Liability Company duly organized and existing under and by virtue of the laws of the State of Wisconsin, located at Waukesha, Wisconsin (herein referred to as "Developer," which term shall also include the duly authorized agent of Developer). Developer is the owner of Lots 1 through 51, inclusive, and Outlots 1 through 8, inclusive, in TREE TOPS Subdivision, being a subdivision of Outlot 1 of Certified Survey Map No. 5250 and unplatted lands, all being a part of the Northwest 1/4 and Southwest 1/4 of the Southeast 1/4 of Section 35, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin, (herein referred to as "TREE TOPS") and intends to establish a general plan for the use, occupancy and enjoyment of TREE TOPS, and in furtherance of the general purpose set forth in Section A, below, does hereby declare for the mutual benefit of present and future owners of lands in TREE TOPS and any future stages of development added as provided in Section D, below (herein referred to individually as "Owner" and collectively as "Owners"), that TREE TOPS shall be subject to the following restrictions.

387

DOC#: 914130



Recorded

DEC. 27, 2001 AT 02:10PM

DOROTHY C. BONNERING
REGISTER OF DEEDS

WASHINGTON COUNTY, WI

Fee Amount: \$73.00

SUPPLEMENTAL DECLARATION
OF RESTRICTIONS
FOR
TREE TOPS SUBDIVISION
AND
TREE TOPS ADDITION NO. 1

Return TO:
Stepman Realty
W240N 221 Peninsula Rd
Waukesha, WI 53188

This Supplemental Declaration is made this 17th day of December, 2001 by
TREETOPS DEVELOPMENT LLC, a Wisconsin Limited Liability Company.

WITNESSETH:

WHEREAS, a Declaration of Restrictions for Tree Tops Subdivision was
recorded in the office of the Register of Deeds for Washington County, Wisconsin on
July 10, 2001, as Document No. 892875, a copy of which is attached hereto as Exhibit A
("Declaration") relating to Tree Tops Subdivision; and

WHEREAS, A Declaration of Restrictions for Tree Tops Subdivision Outlots was
recorded in the Office of the Register of Deeds for Washington County, Wisconsin on
October 9, 2001, as Document No. 903335, a copy of which is attached hereto as Exhibit
B ("Outlot Declaration") relating to Tree Tops Subdivision Outlots; and

WHEREAS, Section D of the Declaration permits Treetops Development LLC
and its successors and assigns to bring within the Declaration future stages of Tree Tops
which are or become adjacent to the lands subject to the Declaration; and

WHEREAS, Treetops Development LLC is the owner of Lots 52 through 102, inclusive, and Outlots 9 and 10 in Tree Tops Addition No. 1, being a subdivision of part of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ and Northwest $\frac{1}{4}$ and Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 35, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin; and

WHEREAS, it is the desire of Treetops Development LLC to bring Tree Tops Addition No. 1 into the Declaration and Outlot Declaration as a future stage of Tree Tops.

NOW, THEREFORE, Treetops Development LLC does hereby declare as follows:

1. That effective upon the last to occur of the recording of this Supplemental Declaration and the recording of a final plat for Tree Tops Addition No. 1, the lands contained within Tree Tops Addition No. 1 shall be added to and included in the Declaration and Outlot Declaration and that as a result thereof: (a) the term "Tree Tops" in the Declaration shall include both Tree Tops and Tree Tops Addition No. 1; (b) the term "Owner" in the Declaration shall include the owners of lots in Tree Tops and Tree Tops Addition No. 1; (c) the term "Common Area" in the Declaration shall also include Outlots 9 and 10 in Tree Tops Addition No. 1; and (d) the term "Tree Tops Outlots" in the Outlot Declaration shall also include Outlots 9 and 10 in Tree Tops Addition No. 1.

2. That the duration of the Restrictions set forth in Section I of the Declaration shall be, with respect to Tree Tops Addition No. 1, the same as provided in the Declaration; and that the duration of the Restrictions set forth in Section E of the Outlot Declaration shall be, with respect to Tree Tops Addition No. 1, the same as provided in the Outlot Declaration.

IN WITNESS WHEREOF, the undersigned have executed this Supplemental Declaration of Restrictions as of the day, month and year first above written.

DOC#: 940625



**SECOND
SUPPLEMENTAL DECLARATION
OF RESTRICTIONS
FOR
TREE TOPS SUBDIVISION,
TREE TOPS ADDITION NO. 1
AND
TREE TOPS ADDITION NO. 2**

Recorded
JULY 25, 2002 AT 09:30AM
DOROTHY C. BONNERING
REGISTER OF DEEDS
WASHINGTON COUNTY, WI
Fee Amount: \$75.00

153

This Second Supplemental Declaration is made this 18th of July, 2002 by
TREETOPS DEVELOPMENT LLC, a Wisconsin Limited Liability Company.

WITNESSETH:

WHEREAS, a Declaration of Restrictions for Tree Tops Subdivision was recorded in the office of the Register of Deeds for Washington County, Wisconsin on July 10, 2001, as Document No. 892875, a copy of which is attached hereto as Exhibit A ("Declaration") relating to Tree Tops Subdivision; and

WHEREAS, A Declaration of Restrictions for Tree Tops Subdivision Outlots was recorded in the Office of the Register of Deeds for Washington County, Wisconsin on October 9, 2001, as Document No. 903335, a copy of which is attached hereto as Exhibit B ("Outlot Declaration") relating to Tree Tops Subdivision Outlots; and

WHEREAS, Section D of the Declaration permits Treetops Development LLC and its successors and assigns to bring within the Declaration future stages of Tree Tops which are or become adjacent to the lands subject to the Declaration; and

EJ

WHEREAS, a Supplemental Declaration of Restrictions for Tree Tops Subdivision and Tree Tops Addition No. 1 was recorded in said Register's office on December 27, 2001 as Document No. 914130 to bring within the Declaration and Outlot Declaration Tree Tops Addition No. 1; and

WHEREAS, Treetops Development LLC is the owner of Lots 103 through 130, inclusive, and Outlots 11, 12, 13, 14 and 15 in Tree Tops Addition No. 2, being a subdivision of part of the Northeast $\frac{1}{4}$ and the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ and the Northwest $\frac{1}{4}$ and Southwest $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 35, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin; and

WHEREAS, it is the desire of Treetops Development LLC to bring Tree Tops Addition No. 2 into the Declaration and Outlot Declaration as a future stage of Tree Tops.

NOW, THEREFORE, Treetops Development LLC does hereby declare as follows:

1. That effective upon the last to occur of the recording of this Second Supplemental Declaration and the recording of a final plat for Tree Tops Addition No. 2, the lands contained within Tree Tops Addition No. 2 shall be added to and included in the Declaration and Outlot Declaration and that as a result thereof: (a) the term "Tree Tops" in the Declaration shall include Tree Tops, Tree Tops Addition No. 1 and Tree Tops Addition No. 2; (b) the term "Owner" in the Declaration shall include the owners of lots in Tree Tops, Tree Tops Addition No. 1 and Tree Tops Addition No. 2; (c) the term "Common Area" in the Declaration shall also include Outlots 11, 12, 13, 14 and 15 in Tree Tops Addition No. 2; and (d) the term "Tree Tops Outlots" in the Outlot Declaration shall also include Outlots 11, 12, 13, 14 and 15 in Tree Tops Addition No. 2.

2. That the duration of the Restrictions set forth in Section I of the Declaration shall be, with respect to Tree Tops Addition No. 2, the same as provided in the Declaration; and that the duration of the Restrictions set forth in

CONSENT OF MORTGAGEE

M&I Marshall & Ilsley Bank as mortgagee of any present or future mortgage on the lands subject to the foregoing Declaration of Restrictions, hereby consents to and agrees that its mortgages shall be subject to the foregoing Declaration of Restrictions.

M & I MARSHALL & ILSLEY BANK

BY: [Signature]

BY: [Signature]

STATE OF WISCONSIN)

) SS

COUNTY OF WAUKESHA)

Personally came before me this 27th day of JUNE, 2002, the above-named BRYAN L. DOWNEY and JOHN W. LINNEN to me known to be the VICE PRESIDENT and SENIOR VICE PRESIDENT respectively of M&I Marshall & Ilsley Bank and to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Rachel M. Formella
Notary Public, County of Waukesha
RACHEL M. FORMELLA
State of Wisconsin
Commission: Exp 3/21/04

EXHIBIT A TO SECOND SUPPLEMENTAL DECLARATION OF RESTRICTIONS

~~DOC#: 892873~~

Document Number

Document Title

ORIGINAL

DECLARATION OF RESTRICTIONS
FOR
TREE TOPS SUBDIVISION

~~Recorded
JULY 10, 2001 AT 09:00AM~~

~~DOROTHY C. BONNERING
REGISTER OF DEEDS
WASHINGTON COUNTY, WI
Fee Amount: \$54.00~~

Recording Area

54-23

Name VILLAGE OF GERMANTOWN

N112 W17001 Mequon Road
P.O. Box 337
Germantown, WI 53022-0337

54-23

KNOW ALL PERSONS BY THESE PRESENTS; that TREETOPS DEVELOPMENT, LLC is a Limited Liability Company duly organized and existing under and by virtue of the laws of the State of Wisconsin, located at Waukesha, Wisconsin (herein referred to as "Developer," which term shall also include the duly authorized agent of Developer). Developer is the owner of Lots 1 through 51, inclusive, and Outlots 1 through 8, inclusive, in TREE TOPS Subdivision, being a subdivision of Outlot 1 of Certified Survey Map No. 5250 and unplatted lands, all being a part of the Northwest 1/4 and Southwest 1/4 of the Southeast 1/4 of Section 35, Town 9 North, Range 20 East, Village of Germantown, Washington County, Wisconsin, (herein referred to as "TREE TOPS") and intends to establish a general plan for the use, occupancy and enjoyment of TREE TOPS, and in furtherance of the general purpose set forth in Section A, below, does hereby declare for the mutual benefit of present and future owners of lands in TREE TOPS and any future stages of development added as provided in Section D, below (herein referred to individually as "Owner" and collectively as "Owners"), that TREE TOPS shall be subject to the following restrictions.

307

This information must be completed by submitter: document title, name & return address, and PIN (if required). Other information such as the granting clauses, legal description, etc. may be placed on this first page of the document or may be placed on additional pages of the document. Note: Use of this cover page adds one page to your document and \$2.00 to the recording fee. Wisconsin Statutes, 59.517. WRDA 2/04

A. GENERAL PURPOSE

The general purpose of this Declaration is to promote the harmonious development of TREE TOPS into a residential district of the highest quality while protecting the natural beauty and quality of the environment. In addition, this Declaration is to help insure that TREE TOPS will become and remain an attractive community; to preserve the open space within TREE TOPS; to guard against the erection therein of poorly designed or proportioned structures; to obtain harmonious use of materials; to insure the highest and best residential development of the property; to encourage and secure the erection of attractive homes in appropriate locations on building sites; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and in general, to provide adequately for high quality improvements while remaining sensitive to preserving the natural environment and thereby maintain and enhance the value of investments made by purchasers of properties in TREE TOPS.

B. BUILDING RESTRICTIONS

1. All lots in TREE TOPS are restricted to the erection of a one story, story and one-half, or two story single family residence building with a minimum square footage of living space (without regard for basement level areas) as specified in Paragraphs B.2 through B.5. below, and with an attached garage which will accommodate at least two cars.

2. The minimum size of a one-story residence shall be 2000 square feet on the first floor.

3. A story and one-half residence shall have a minimum of 2200 square feet on the upper two floors.

4. A two-story residence shall have a minimum of 2200 square feet on the upper two floors.

5. A tri-level residence shall have a minimum of 2200 square feet on the upper two floors.

6. The garage must be attached to the residence directly or by breezeway, or built into the basement of the residence and must be constructed with the residence. The maximum size of the garage shall conform to Village of Germantown (hereinafter referred to as the "Village") ordinances. Wherever possible garage entrances must be on the side of the building. Attached garages built at an angle to the body of the house ("canted" garages) may be allowed where specifically approved by Developer.

7. The exterior walls of the residence and attached garage must be constructed of brick, stone, stucco, solid wood siding, wood waferboard products of the type and quality of the innerseal lap siding product manufactured by Louisiana Pacific Corporation on the date hereof, Hardiplank siding, or their equivalents. Certain artificial stone products may be allowed if specifically approved by Developer. Siding materials such as aluminum, vinyl, steel, pressed board, Masonite or plywood will not be permitted, except on soffits. Soffits, but not fascias, may be made of the siding materials permitted above and aluminum or vinyl. Any exposed basement or foundation wall must be covered with masonry veneer, plaster or the siding materials used on the walls above.

8. All two story and story and one-half residence roofs shall have a minimum pitch of eight feet in height for each twelve feet in length (8/12), except for rear dormers on a story and one-half residence. All one-story residence roofs shall have a minimum pitch of ten feet in height for each twelve feet in length (10/12). A lower minimum roof pitch may be allowed in special circumstances if approved in writing by Developer. All roofs having an appropriate pitch shall be covered with either wood shakes or textured shingles in a "weatherwood" color.

9. The residence with attached garage, a sodded or seeded lawn and a driveway paved with concrete, asphalt or brick must be completed within one year of the start of construction.

10. Only one residence may be erected on a lot.

11. The minimum setback from any abutting street right-of-way is 40 feet. On corner lots the minimum setbacks are 40 feet from the abutting front street right-of-way and 35 feet from the abutting side street right-of-way. The minimum side yard offset is 10 feet on one side and 15 feet on the opposite side. The minimum rear yard is 30 feet. The minimum setback from a mapped wetland is 25 feet.

12. There shall be no outside storage of boats, trailers, buses, commercial trucks, recreational vehicles or other vehicles or items deemed to be unsightly by the Developer or the TREE TOPS Homeowners Association, created pursuant to Section C, below.

13. All building plans and the exterior design of each building to be constructed, added to or modified and all yard grades and stakeout surveys must be approved by

Developer in writing prior to application for a building permit. Developer's approval shall be based upon the building and use restrictions contained in this Section B and the Guidelines for Plan Approval for TREE TOPS Subdivision which Owner shall obtain from Developer prior to submitting plans to Developer for approval. Developer may withhold exterior design approval if the design is too similar in appearance to others in close proximity.

14. Basic site features such as fences (which shall be of a decorative style; in no event will chain link or privacy fences be allowed), decks, gazebos, pool houses, swimming pools (which must be in-ground), retaining walls (which shall only be constructed of natural stone, wood timbers or certain artificial stone products if specifically approved in writing by Developer) berms more than 3 feet in height and other temporary or permanent structures or elements contributing significantly to the total environmental effect of TREE TOPS are subject to the prior written approval of Developer. Children's outdoor playground equipment and play structures shall be allowed provided that any part of such equipment or structure that is an enclosure must be approved in writing by Developer prior to installation. Dog kennels are allowed provided that they are located immediately behind the house or garage with any fences screened from view by adequate landscaping. Following such time that a principal residence has been constructed upon each lot in TREE TOPS, Developer may, but shall not be obligated to, delegate to the TREE TOPS Homeowners Association Committee the approval authority contained in this Paragraph 14. To be effective, notice of such delegation shall be recorded in the office of the Register of Deeds for Washington County, Wisconsin.

15. At the time of construction of a residence the Owner shall install at a location designated by Developer, one outdoor electric post lamp with an unswitched photoelectric control. The design of the post lamp shall be uniform throughout TREE TOPS and subject to the approval of the Developer. The Owner shall maintain the post lamp in a proper operating manner. If the post lamp is not so maintained, and the condition has not been rectified by the Owner within 15 days after receipt of a notice from the TREE TOPS Homeowners Association specifying the violations of this Paragraph 15, the Owner shall be subject to a penalty of not more than \$10.00 per day from the date of notice until the date the condition has been rectified. The penalty shall be assessed against the Owner and, if not paid, will be enforced as provided in Paragraphs C.12(e), C.12(f), and C.12(h), below.

16. The design and location of each mailbox/newspaper box shall be uniform throughout TREE TOPS and subject to approval of the Developer.

17. There shall be no satellite dish antennas having a diameter in excess of 24 inches, no outbuildings and no above-ground swimming pools. No antenna or satellite dish shall be mounted or installed on any roof. Any antenna or satellite dish should, if possible without interfering with reception, be placed and screened so as to minimize its visibility from roadways and neighboring lots. All swimming pool related pump, heater and filter equipment must be concealed in an enclosure located next to the home or attached garage to minimize the noise and visibility to adjoining properties. A different location may be allowed in special circumstances if approved in writing by Developer.

18. The Developer, and no other, shall have the right and authority to modify the Building and Use Restrictions or to permit variances from the application thereof, if, in its

opinion, the modification or variance is consistent and compatible with the overall scheme of development of TREE TOPS, provided that no such modification shall be in violation of local ordinances, or have the effect of revoking an approval previously granted in writing hereunder. Notwithstanding the foregoing, any such modifications or variances shall be at the sole and absolute discretion, aesthetic interpretation and business judgment of the Developer, and this paragraph and any modifications or variances granted hereunder shall not in any way be interpreted (i) as preventing the Developer from requiring at any time, and from time to time, strict compliance with the Building and Use Restrictions, or (ii) as entitling any person to a modification or variance not approved and granted in writing by the Developer.

19. Each Owner, prior to beginning construction of improvements on its lot, shall strip the top soil from the entire area of the lot anticipated to be disturbed during construction. The top soil shall be stockpiled on site for eventual redistribution and regrading after the completion of construction, in accordance with Village ordinances.

20. Each Owner must adhere to and finish grade its lot in accordance with the Master Grading Plan or any amendment thereto approved by the Village Engineer on file in the office of the Village Clerk. The Developer and/or the Village and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance and correction of any drainage condition, and the Owner is responsible for cost of the same. Each Owner, at the time of home construction, shall also be responsible for grading their lot so as to direct drainage toward the street or other established drainageway and to prevent an increase in drainage on to neighboring

property. This shall be accomplished by creating swales along common lot lines wherever practical. Each Owner must consult with the adjacent lot owner to determine the best manner in which to grade their common lot lines. Neither the Developer nor the Village shall be responsible for establishing lot line grades due to the varying terrain and drainage conditions on each lot following home construction.

21. Each Owner shall, from the time construction on their lot has commenced, be responsible for installing and maintaining erosion control measures until such time as a lawn or other plantings sufficient to prevent erosion has been established on the property. These measures include, but are not limited to: installation of silt fence, hay/straw bales, ditch checks; street cleaning following precipitation events or tracking of mud on streets by any vehicle leaving the property; and sodding or seeding and mulching lawn areas. Steep slopes may require installation of straw mat, jute mat or other materials designed to stabilize steep and highly erodable areas. Any areas where erosion control measures have been compromised by weather, construction or any other event, shall be repaired within 7 days of damage. Erosion control measures must be inspected and any necessary maintenance or repairs made after every rainfall exceeding ½ inch and at least once per week. Failure to comply with these requirements may result in sanctions against the Owner by the Village and/or the Wisconsin Department of Industry, Labor and Human Relations or the Wisconsin Department of Natural Resources. All erosion control measures shall be installed and maintained according to the standards and specifications set forth in Wisconsin Construction Site Best Management Practices Handbook and/or local ordinances.

22. In the event that a neighboring property is disturbed during construction or