

Document Number

Document Title

DECLARATION OF RESTRICTIONS
AND COVENANTS FOR TURNBERG ESTATES
SUBDIVISION

4339077

REGISTER OF DEEDS
WAUKESHA COUNTY, WI
RECORDED ON

May 15, 2018 08:25 AM
James R Behrend
Register of Deeds

17 PGS
TOTAL FEE: \$30.00
TRANS FEE: \$0.00

Book Page -



Recording Area

Name and Return Address

MIKE SANFELIYO
646 SO 2ND ST
MILWAUKEE WI
53204.

Parcel Identification Number (PIN)

030/17

DRAFTED BY MICHAEL SANFELIYO
5-14-2018.

THIS PAGE IS PART OF THIS LEGAL DOCUMENT - DO NOT REMOVE.

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DECLARATION OF RESTRICTIONS AND COVENANTS
FOR
TURNBERRY ESTATES SUBDIVISION

This Declaration Made this 14 day of MAY, 2018 by Turnberry Estates LLC (the "Declarant").

WITNESSETH

WHEREAS, the Declarant owns the real property in the City of New Berlin, (the "City") more particularly described on Exhibit A attached hereto (the "Property"), portions of which have been platted as "Turnberry Estates Subdivision" and further described on the plat attached hereto as Exhibit B (the "Subdivision"), consisting of 9 single-family residential lots in compliance with the Development Agreement and other agreements by and between Declarant and the City of New Berlin (collectively, the "City Agreements") and such other agreements between Declarant and other parties affecting the Subdivision (the "Ancillary Agreements").

WHEREAS, Declarant desires to subject the Subdivision to the conditions, restrictions, covenants, reservations and easements hereinafter set forth for the benefit of the Subdivision as a whole and for the benefit of each owner of any part of the subdivision.

AGREEMENT

NOW, THEREFORE, DECLARANT hereby declares that the real property hereinafter described shall be used, held, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, which shall inure to the benefit of and pass with said property and each of every parcel thereof, and apply to and bind the successors in interest and any owner thereof.

Definitions. Unless defined elsewhere in this Declaration, the terms below shall have the following definitions: "Architectural Control Committee" (A.C.C.) shall mean the committee referred to in Article II thereof. "Development Agreement" shall mean that certain Development Agreement between Declarant and the City dated as of April 27, 2017. "Dwelling" shall mean a building, which contains one Unit. "Family" shall mean one or than one person living, sleeping, cooking or eating on premises as a single housekeeping group, and shall exclude a group or groups of persons where three or more persons thereof are not household employees or related by blood, adoption, or marriage. "Final Plat" shall mean that Final Plat of Turnberry Estates Subdivision, dated as of MAY 15, 2018, and recorded in the Waukesha County Register of Deeds Office as Document No. 4339076 and attached hereto as Exhibit B. "Turnberry Estates Home Owners Association" ("HOA") shall mean a Wisconsin non-stock corporation responsible for certain duties relating to the maintenance and operation of the Subdivision as may be referred to herein or in the bylaws of HOA. "Lot" shall mean a portion of real property in the Subdivision platted for residential development and shall not include any platted Outlot.

“Outlot” shall mean a parcel designated as an outlot on the Subdivision plat, which by reason of such designation is not platted as a single building site. “Owner” shall mean the individual or individuals that hold fee simple or other title to a Lot. “Unit” shall mean that portion of a Dwelling to be occupied by a single Family.

ARTICLE I – General Purpose and Property Subject to this Declaration.

1.1 General Purpose. The general purpose of this Declaration is to ensure that the Subdivision will become and remain an attractive, high-end residential community. To further the general purpose of this Declaration, and to preserve and maintain the natural beauty and the natural plant life and wildlife habitat of certain open spaces and recreational area within and adjacent to the Subdivision; to insure the best use and the most appropriate development and the improvement of each Lot; to protect owners of Lots against such use of Lots as will detract from the residential value of such Lots by preventing the erection thereon of poorly designed or proportioned structures; to obtain harmonious use of material and color schemes; to insure the highest and best residential development of said Lots consistent with the purpose for which it is platted; and to secure and maintain proper spatial relationship of structure and lot lines.

1.2 Property Subject to this Declaration. The property subject to this Declaration and making up the subdivision is described on Exhibit A attached hereto.

ARTICLE II – Use of Lots, Building Restrictions and Similar Matters

2.1 Single-Family Lots. No lot shall be used except for single-family, residential purposes. No Dwelling or other structure shall be erected, altered, or permitted to remain on any such Lot other than one detached, single-family Dwelling, not exceeding two and one-half stories in height and an attached private garage for not less than three cars, and a maximum of one outbuilding incidental to residential use of premises, except for lot 6 (six) which may have more than one outbuilding for private use only.

2.2 Building Sizes. Any Dwelling erected on a Lot shall have at least the following minimum areas:

- Not less than 2,600 square feet for a one-story Dwelling;
- Not less than 1,650 square feet for the first floor of a one and one-half or two story Dwelling and not less than 3,150 square feet for both the first and second floors combined; or
- Not less than 2,400 square feet on the upper floors of a split-level, two-story or tri-level Dwelling. Upper floors are defined as the total living area on those floors immediately below the roof but excluding the ground level regardless of whether or not they are at the same elevation.

- With respect to all other types of Dwelling, not less than such areas determined by the HOA or the A.C.C., as are reasonably consistent with the foregoing and with other provisions hereof.

Minimum area square footage calculations by the A.C.C. shall be made from the outside face of the exterior wall construction and include all walls. Window, fireplace and room projections are included only when the floor joists are extended under those areas. Areas not included are decks, porches, garages, carports, attics, space labeled "optional" or "bonus", breezeways, sunrooms or similar additions. No floor area below finished yard grade shall be considered living area.

For purposes of figuring total area, the A.C.C., in its sole discretion, shall determine what constitutes a one-story, a one and one-half story, a two-story or a tri-level Dwelling.

In no event shall any Dwelling of any type containing a total of less than 2,600 square feet within the main Dwelling as measured above be erected on any lot.

No building shall be constructed which shall be a substantial duplication of any other previously approved or constructed building located within 750 feet of the proposed building unless in the opinion of the A.C.C. such duplication would not be a detriment to the previously approved or constructed building.

2.3 Other Improvements. In order to maintain harmony in appearance and to protect the owners of the Lots in the Subdivision, and in addition to the approval of the Dwellings by the A.C.C., no building, garage, fence, sign, wall, trellis, lattice, swimming pool, storage area, tool cabinet, garden house, dog house, and similar improvements (each an "Improvement", collectively the "Improvements") shall be erected, constructed or maintained upon any lot nor shall any change or alteration be made thereon unless the complete plans and specifications thereof (the "Plans and Specs"), a survey showing the exact location of any such improvement, the elevation thereof and the grade of the lot and a sketch or view of such building or structure or changes (collectively, a "Survey"), shall have been submitted to and approved in writing by the A.C.C. The decision of the A.C.C. with respect to any Plans and Specs or Survey shall be final and binding upon all parties. The A.C.C. shall have the right to refuse to approve any such Plans and Specs or Surveys, which, in the conclusive judgment of a majority of its members, are not in conformity with the restrictions contained herein or are not otherwise in conformance with the standards promulgated by the A.C.C. In determining whether to approve upon such Plans and Specs and Survey, the A.C.C. may take into consideration the suitability of the proposed Improvement, its design, elevation and the materials of which it is to be constructed on the proposed location; the harmony thereof with the surrounding existing improvements and the view from the adjacent Lots. Further, the A.C.C. shall not approve any improvement, which the A.C.C. determines in its sole discretion, will violate the Development Agreement or any Ancillary Agreement to which the Property is subject. All decisions of the A.C.C. on such matters shall be final. The A.C.C. shall have the right to waive minor infractions or deviations

from these restrictions in case of matters of the best interest to the subdivision. Each lot purchaser shall be deemed to be fully aware of, and accepting of, the restrictions contained herein and aware of the building and zoning codes of the City of New Berlin upon closing on the purchase of a lot.

All improvements shall utilize the same roof and exterior materials as the house. All garages shall be built at the same time as the private dwelling, shall be large enough to accommodate a minimum of three cars and be situated such that the entrance for cars does not directly face the street. Canted garages will be allowed. Absolutely no truck, boat, mobile home, or trailer of any kind may be parked on the premise outside of the garage other than for the delivery of materials or merchandise, except during construction, servicing or remodeling periods. No vehicle shall be parked or stored on the premises outside the garage while being repaired or restored for longer than a fourteen (14) hour period.

Each lot owner shall install at his/her expense one standard approved light pole at the driveway entrance. Lot owner shall obtain written approval of light pole location and specifications of type and design from developer or H.O.A. prior to installation.

Developer or H.O.A. will install and maintain one community mailbox station within the common space of the subdivision. The cost for installation and maintenance of the community mailbox station will be paid for by the H.O.A. Individual mailboxes are not allowed.

2.4 A.C.C. Membership. So long as the Declarant or its assigns shall own any of the Lots, the Declarant shall appoint the members of the A.C.C. When the Declarant or its assigns no longer own any of the Lots, then the A.C.C. shall consist of three members of the HOA as elected by the buyers of the lots in Turnberry Estates, each lot representing one vote. Members of the A.C.C. shall serve for three years or until their successors have been duly elected. Due notice of the election of such A.C.C. shall be filed in the Office of the Register of Deed, Waukesha County.

2.5 Setbacks. Setbacks and locations of all Dwellings and Improvements (other than fences and walls approved by the A.C.C.) shall be as follows:

Building Setback (from street right-of-way)	40 feet minimum
Building Offset (side)	15 feet minimum
Building Offset (rear)	40 feet minimum

2.6 Timeline for Construction. All Dwellings and Improvements shall be completed within sixteen (16) months from the date ground is broken for such Dwelling or Improvement unless such shorter period of time is provided for in the A.C.C.'s approval of the Dwelling or Improvement.

2.7 Approved Materials. No used materials will be permitted in the construction of any Dwelling or Improvement in this Subdivision except such materials as reclaimed brick, which in the opinion of the A.C.C. will enhance the appearance of the Dwelling or Improvement of which they will become a part. There shall be a continuance of design on all sides of each Dwelling.

Exposed concrete and/or cinder block (e.g. exposed basements) as an exterior wall shall not be allowed. All Dwellings must have a minimum of 30% masonry brick or natural stone on the front (street facing) side of the building, in addition to any other approved siding material.

The exterior of any fireplace must have an outside chimney covered with masonry brick or natural stone if any part of the chimney is at all visible from the front facing street; the chimney must be at least 2 feet wide and 4 feet in length unless otherwise approved by the HOA or A.C.C. The chimney may be covered with the same exterior materials as the house if no part of the chimney is visible from the front facing street.

2.8 Exposed Basements. The A.C.C. may require that certain basement walls be exposed to allow for a more natural transition between homes. Any exposed basement or foundation walls shall comply with the provision of paragraph 2.7.

2.9 Prohibited Activities No noxious or offensive activity shall be carried on upon any lot or common area nor shall anything be done thereon which may be or may become an annoyance or nuisance to the Subdivision or the members thereof. Trash, garbage or other waste shall not be kept except in sanitary containers, which shall be properly screened from public view. No Dwelling or Improvement may be occupied until it has been substantially completed in accordance with the Plans and Specs submitted to and approved by the A.C.C. and an occupancy permit obtained from the City. Further, no activity which, in the Declarant's or HOA's determination, violates, materially interferes with, or otherwise frustrates the purpose of the Development Agreement or any other Ancillary Agreement, may be carried on within the Subdivision or the Property.

Dwellings located within the Subdivision are intended for single-family, owner-occupancy and may not be rented, leased, borrowed or conveyed out on a short-term basis (considered to be less than 12 months) for occupancy by non-immediate family members of the Owner without the Owner simultaneously and without interruption occupying the Dwelling.

2.10 Drainage Requirements A master surface drainage and house grade plan has been prepared by the Declarant designating the manner in which each Lot shall drain in relation to all other Lots in the Subdivision, and designating the suggested grade elevation of the dwelling to be constructed thereon (the "Drainage Plan"). A copy of the Drainage Plan is on file in the office of the Declarant and in the office of the City's building inspector (the "Building Inspector"). At the time a building permit is requested, the grade elevation of said Dwelling or other Improvement shall be obtained from the Building Inspector and the Dwelling or other Improvement shall be constructed accordingly. No deviation therefrom shall be permitted without written approval of

the City. Within 30 days after completion of a Dwelling, the Owner of said Dwelling shall grade the Lot to conform to said Drainage Plan and from that time forward nothing shall be done which will materially impede or obstruct the flow of surface drainage water in accordance with the Drainage Plan. Silt fences have been placed at various places in the Subdivision by the Declarant in accordance with approved plans, including, without limitation the grading plan, on file as above, or as ordered by the City in the course of development of the Subdivision. Owners are required to maintain said silt fences until such time as turf cover is restored to all disturbed area, and to comply with any orders of the City requiring additional fencing, hay bales, and/or ditch checks. If an Owner fails to comply with such order within forty-eight (48) hours, the City or A.C.C. shall have the right to cause such work to be done, and to charge the cost thereof to the Owner, which if not paid to the City, shall be added to the tax bill as a special assessment, and if not paid to the A.C.C., shall be added to the annual Homeowners Association annual dues (the "HOA Fees") as special assessment.

The Declarant has pregraded all Private Drainage Easements indicated on the Subdivision Plat attached to this Declaration as Exhibit B. Buyers of Lots or there assigns are prohibited from altering or filling said easements.

2.11 Ground Fill on Building Site. Where fill is necessary on a lot to obtain the proper topography and finished ground elevation, it shall be ground fill free of waste material and shall not contain noxious materials that will give off odors of any kind. Dumped fill material shall be leveled immediately after completion of a Dwelling or Improvement. Said fill shall also be subject to a fill permit issued by the City.

All land lying within Outlots shall be protected for the preservation of natural growth. There shall be no excavation of or filling of these lands without the consent of the HOA, A.C.C. and City. There shall be no clearing of any natural growth except for noxious weeds, good forestry practices and the provisions of Section 2.27 of this declaration.

2.12 Swimming Pools. In-ground swimming pools shall be permitted in the backyard of any lot so long as such swimming pools are installed in accordance with City requirements. No above-ground swimming pools, other than temporary (kiddie wading pools) portable above-ground pools with a diameter not to exceed eight (8) feet and sides not to exceed thirty (30) inches are permitted provided they shall not be kept in the driveway, front yard or the Lot side yard. No other above-ground swimming pools are permitted. A.C.C. approval must be obtained for location and size of portable pools.

2.13 Fences. Lot line fences will be permitted, provided they are constructed of wood, composite wood, masonry or ornamental metal, a maximum of four (4) feet in height, and the design thereof has been submitted to and approved by the A.C.C. and City in advance of construction.

2.14 Playsets. Children's outdoor play structures shall be permitted provided they are not constructed in the front yard or Lot side yard setbacks. A.C.C. approval must be obtained for location and structure before constructions begin.

2.15 Signage. No signs of any kind shall be displayed to the public view on any Lot except one professional sign of not more than five (5) square feet in area advertising the Lot for sale or resale, or signs used by a building contractor or by the Declarant to advertise the Lot.

2.16 Pets. Outside kennels shall not be located within the setback areas or in the front yard or Lot side yard.

2.17 Landscaping. Lots shall be landscaped and seeded or sodded within six months after completion of Dwelling. Landscaping shall include the area between the front Lot line and the edge of the street pavement. All landscaping must be of a conventional nature. No stone aggregate lawn, or wild and/or prairie type vegetation substitutes for a typical grass (seed or sod) lawn will be allowed. At least six (6) trees with minimum caliper of two inches shall be installed on each lot at time of landscaping.

2.18 Recreational Vehicles. No off-road motorcycles, snowmobiles, trail bikes, dune buggies, watercraft, ATV or off-street motorized vehicles of whatsoever type or description shall be operated or stored on any lot, outlot, driveway parking area, private road, or any other land within the boundaries of the subdivision except for Lot six(6) on which these types of off-road vehicles may be operated or stored in a manner that is not an overbearing nuisance to other Subdivision residents.

2.19 Utilities. No overhead utility service shall be provided or allowed within the Subdivision.

2.20 Antennae. No satellite receiver dishes or other antennae shall be allowed or installed on any Lot, Dwelling or Improvement in the Subdivision with the exception of satellite dishes with diameters of 24 inches or less, and standard rooftop television antennae so long as such antennae are in accordance with City regulations.

2.21 Construction and Other Debris. It shall be the responsibility of each Owner to remove all debris caused by any and all construction work occurring on his or her Lot. No Owner shall knowingly allow disposal of any waste building material, tree stumps, branches, tree trunks or other material on any Lot, Outlot, street or conservancy area. Each Owner shall be responsible for maintaining all silt fence and other erosion control measures on his or her Lot until final landscaping has been completed. Each Owner shall be responsible to clean daily any debris that may accumulate in the roadway as a result of work performed on said Owners Lot. Failure to do so may result in the Declarant or HOA performing the required work and charging the Owner with the actual cost of cleanup plus any fines or penalties assessed by any governmental authority and a \$200 administrative fee. Any such assessment shall become a Lien against the

Lot. Should the costs not be paid, this paragraph shall be construed as a notice of intent to file Lien against the Lot.

2.22 Retaining Walls. Retaining walls shall be subject to the regulations of the City and be built of stone, brick or decorative concrete masonry units but not of concrete block or unfaced concrete.

2.23 Common Areas. The HOA will be responsible for the maintenance of all storm water retention ponds, outlots, common areas, amenities installed for the benefit of all Lot owners and the landscaped areas surrounding them. All Owners shall own an undivided fractional interest in the Outlots and common areas proportionate to the number of Lots owned by such Owner and the total Lots within the Subdivision. Any transfer or conveyance of any Lot shall automatically transfer and convey the Lot grantor's undivided fractional interest in said Outlot or common area to the grantee. Should the HOA fail to maintain the storm water retention ponds, outlots, common areas and the landscaped areas surrounding them, the City shall have the authority to perform the maintenance and charge the costs including but not limited to engineering, work performed, administration and legal costs to the Owners as a special assessment levied against each Lot. Failure to pay such special assessments by an owner may result in a lien against such Owner's Lot(s).

2.24 Septic/Sewer Easements. A properly sized area for either an in-ground or mound system has been provided for all of the lots, with the required reports for such having been prepared, filed with and approved by the appropriate agency in Waukesha County. These tests are a matter of record and shall be provided to each Lot buyer by the Declarant or HOA as applicable prior to the sale of any Lot. At the time an Owner proposes to construct a Dwelling on their Lot, such Owner shall have prepared the designs and locations for the proposed septic system to be contained on the lot. The owner shall obtain required permit(s) from the proper governing agency.

Should a Lot Owner desire to obtain an easement for the partial or complete installation of their septic system within the adjacent common areas, the following procedures shall apply to obtain such easements.

- A) The Owner requesting such easement shall be solely responsible for the costs associated with obtaining an off-lot easement.
- B) The Owner will file an application with the H.O.A. and the A.C.C. with sufficient details to enable the H.O.A. and the A.C.C. to review and preliminarily and conditionally approve such off-lot easement. Tree removal in the Common Area will not be allowed to accommodate an off-lot septic system, nor will drainage into any bodies of water located in or near the Common Areas.

- C) The Owner shall contact the Waukesha County Department of Parks and Land Use and the City of New Berlin Planning Department (the "Planning Departments") to obtain approval for an off-lot septic system.
- D) After receiving preliminary approval from the H.O.A. and the A.C.C. as well as the Planning Department, the Owner shall then have the necessary septic system tests in the proposed easement area conducted to insure a proper system can effectively operate in the proposed easement area. Such Owner shall also provide the necessary land surveying information and data to define the proposed easement area and any access easement required.
- E) Following satisfactory testing for an off-lot septic system, the Owner shall provide to the H.O.A. and the A.C.C. for final approval the test report and confirmation from Waukesha County that the tests were acceptable. Approval from the H.O.A. and the A.C.C. does not guarantee that an off-lot septic system will be permitted by Waukesha County or the Planning Department.
- F) Upon final approval by the H.O.A. and the A.C.C., the Owner shall have prepared all final recordable documents, which will be submitted to Waukesha County for their approval. If Waukesha County approves the off-lot easement, the Owner shall record such documents and obtain the necessary permits. The Planning Department shall provide an advisory role for septic system locations.
- G) The condition, covenants, and restrictions contained in this Declaration shall also apply to all additional easements as may be granted and created thereafter and the HOA shall be deemed a burdened party under any such easements.

ARTICLE III – Composition, Powers and Rights of the HOA and the A.C.C.

3.1 Purpose of the HOA. The Declarant has deemed it desirable for the effective preservation of the values and amenities in the Subdivision to create an organization to which should be delegated and assigned the powers of maintaining and administering the Outlots and Common Areas in the Subdivision, administering and enforcing the covenants and restrictions herein, and ensuring continued compliance with the Development Agreement and other Ancillary Agreements affecting the Property or the Subdivision. The Declarant has also deemed it desirable that the HOA shall have the power to assess, collect and disburse the assessments and charges hereinafter created. The HOA was incorporated as a nonstock corporation under the laws of Wisconsin to carry out the functions set forth above,.

3.2 Membership. Every Owner within the Subdivision and any future additions to the Subdivision as defined herein shall be a member of the HOA, except that no entity who holds an interest in any Lot merely as security for the performance of an obligation shall be a member.

3.3 Management. The HOA shall be managed by a Board of Directors, (the "Board"). The Board shall consist of not less than three (3) directors and may consist of as many directors as the Board determines appropriate. As long as the Declarant shall own at least twenty (20) percent of

the Lots, (the "Threshold Percentage"), the directors shall be appointed by the Declarant. After the Threshold Percentage is reached, the Board shall be elected by a majority vote of the Owners pursuant to the bylaws of the HOA (the "Bylaws"). Notwithstanding anything to the contrary, Declarant may, in its sole discretion, turn control of the Board over to the members of the HOA at any time. Regardless of whether Declarant retains control of the Board, so long as Declarant owns any Lot, Declarant shall have control over the HOA and the A.C.C.

3.4 Voting Rights. The HOA shall have one class of membership: members shall be Owners and shall be entitled to one vote for each Lot in which they own. When more than one person owns such interest or interests in any lot, e.g. as tenant in common or survivorship marital property, there shall be cast one (1) vote amongst both Owners of each Lot so owned.

3.5 Amendment of Declaration. Prior to the time that the Threshold Percentage is reached, the Board may amend the terms and conditions set for in this Declaration to the extent permitted by law and not in violation of the Development Agreement or other Ancillary Agreements. After the Threshold Percentage is reached, the HOA may amend this Declaration only by an affirmative vote of no less than two-thirds (2/3) of its members; provided however, that no amendment shall be permitted without the written consent of the Declarant, which consent may be withheld in Declarant's sole discretion, so long as the Declarant or its assigns continues to own, have title to, or control any Lot(s) within the Subdivision.

3.6 The A.C.C.

- A. Until the Threshold Percentage is reached, the A.C.C. shall be composed of three (3) representatives appointed by the Declarant. After the Threshold Percentage is reached, the A.C.C. shall be composed of three (3) members elected by the Board. Nothing contained herein shall prevent the Declarant, at its sole option, from relinquishing control over the A.C.C. prior to the time that the Threshold Percentage is reached.
- B. The A.C.C. shall have the right to promulgate and impose rules and regulations and a schedule of reasonable fees for the processing of applications by the A.C.C. as the A.C.C. deems necessary or appropriate in order to preserve the value and appearance of the Subdivision, and thereafter, to modify, alter, amend, rescind and augment any of the same (collectively the "Architectural Control Committee Rules"), provided that the Architectural Control Committee Rules shall be approved by the Declarant in writing, so long as the Declarant owns any Lot within the Subdivision. When Declarant no longer owns any Lots, the Architectural Control Committee Rules shall be approved in writing by the Board before taking effect. Any Architectural Control Committee Rule, which violates or contradicts the terms of this Declaration, the Development Agreement or any Ancillary Agreements shall be null and void.
- C. Every member of the A.C.C. shall be indemnified by the HOA against all expenses and liabilities, including attorney's fees actually incurred by such member in connection with any proceeding to which he or she may be a party, or in which he or she may become

involved by reason of his or her being or having been a member of the A.C.C. , whether or not he or she is a member of the A.C.C. at the time such expenses are incurred. Such indemnification obligation shall not arise in such cases wherein the member of the A.C.C. is adjudged guilty of willful malfeasance in the performance of his or her duties. The foregoing rights of indemnification shall be in addition to and not exclusive of any right of indemnification to which a member of the A.C.C. may be entitled whether by statute or common law.

3.7 Annual Assessments. Each Lot shall be subject to an annual charge or assessment for the purpose of defraying the costs of maintaining and administering the Outlots and Common Areas which shall be determined annually by the Board (the "Annual Assessment"). Such Annual Assessment shall be paid by the Owners on a pro rata or per Lot basis, of the estimated cost to be incurred by the HOA to maintain the Outlots and Common Areas as well as compliance with the Development Agreement and any other Ancillary Agreements. Said costs shall include but not be limited to payment of taxes, insurance, repairs, replacements, and additions to the improvements made upon said Outlots or Common Areas, and the cost of labor, equipment, materials, management and supervision thereof.

The Declarant shall pay an Annual Assessment for each Lot it owns so long as it owns any Lot(s).

The Annual Assessment shall be determined by the HOA as of January 1st each year and the statement for such amount shall be mailed to the owner of each lot of such date to be payable on or prior to March 1st of each year. The initial Annual Assessment shall be \$800 per lot prorated per annum and payable by the Owner at closing of a purchase of a Lot. Further, each Owner shall pay an HOA deposit equal to the initial Annual Assessment at closing of a purchase of a Lot.

3.8 Special Assessment. A special assessment may be levied by the HOA for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon any Outlot or Common Area in the Subdivision, if consented to by two-thirds (2/3) of the votes of the members of the HOA (the "Blanket Special Assessment"). Further, special assessments may be levied against individual owners to reimburse the HOA or the A.C.C. for the costs related to bringing such Owner's Lot(s) into compliance with this Declaration or the Architectural Control Committee Rules as applicable (the "Targeted Special Assessment" together with the Blanket Special Assessment, the "Special Assessments"). Targeted Special Assessments levied by the HOA or A.C.C. shall not require the consent of the members of the HOA, but shall require an affirmative vote of the majority of the Board members of the A.C.C. as applicable. Upon approval, notice of such Special Assessment shall be mailed to appropriate Owners via First Class United States Mail or electronic delivery. The Declarant shall not be assessed for any such capital improvement or special assessment for any Lot owned by Declarant without Declarant's prior written consent.

Special Assessments shall be due and payable ninety (90) days after notice of a Special Assessment is mailed to the appropriate Owner(s).

3.9 Proof of Payment. The HOA shall, upon demand at any time, furnish to any Owner a certificate in writing signed by an officer of the HOA setting forth whether any said Annual Assessments or Special Assessments remain due and outstanding by any Owner. Such certificate shall be conclusive evidence of the payment of any and all Assessments.

3.10 Violation of Declaration. In the event of a violation of the terms of this Declaration, the Development Agreement or any Ancillary Agreement by an Owner, the Declarant, HOA, and A.C.C. shall have the right to enforce such terms in the Wisconsin Circuit Court for Waukesha County and may seek any and all remedies available at law and equity, including without limitation, the filling and foreclosure of one or more liens on one or more Lots. The costs and expenses related to any enforcement activities (including reasonable attorney fees) shall be paid by the violating owner.

3.11 Liens and Collection of Assessments.

A. Collection of HOA Assessments. In the event any owner shall fail to pay any Assessment levied against his or her Lot(s) or installment thereof, charged to such Owner within fifteen (15) days after the same becomes due, then the HOA through the Board of A.C.C. shall have any and all of but not limited to the following remedies to the extent permitted by law:

- I. To advance on behalf of the owner in default, funds to accomplish the needs of the HOA, up to and including the full amount of the Assessment for which such Owner is liable, together with interest eighteen (18%) percent and all costs of collection thereof. Such advance by the HOA shall not waive the default.
- II. To file an action in equity to foreclose its lien at any time after the effective date thereof. The lien may be foreclosed by an action in the name of the HOA in the manner as the foreclosure of a mortgage on real property.
- III. To file an action of law to collect said Assessments, plus interest, plus court costs and attorney fees without waiving any lien rights or rights of foreclosure on any lien held by the HOA.

B. Collection by Declarant. So long as Declarant owns any Lot(s), in the event the HOA fails to collect any Assessments, then Declarant shall at all times have the right (but not the obligation):

- I. To advance to such delinquent Owner such sums as the HOA could have advanced as set forth above; and
- II. To collect any such sums advanced plus interest as set forth in this Declaration by Declarant; utilizing remedies available to the Declarant under the laws of Wisconsin as set forth above.

ARTICLE IV – Declaration of Terms

4.1 This Declaration shall run with the land and shall be binding upon all persons claiming under the Declarant for a period of ten (10) years from the date this Declaration is recorded. After the expiration of said period this Declaration shall be automatically renewed for successive periods of ten (10) years unless there is recorded an instrument executed by the Owners of at least 60% of the Lots, for the purpose of terminating the Declaration, in which case this Declaration shall terminate at the end of the initial or renewed term which next expires following the recording of such instrument of termination.

4.2 Invalidity of any provision of this Declaration, regardless of how determined, shall in no way affect any of the other provisions, which shall remain in full force and effect.

4.3 This Declaration may be annulled, waived, changed. Modified or amended at any time by written Declaration setting forth said change, executed by the Owners of at least sixty percent (60%) of the Lots, and also executed and approved by the Declarant so long as it owns any parcel or Lot in said Subdivision. Said Declaration shall become effective only upon due recording with the Office of the Register of Deeds for Waukesha County, Wisconsin.

4.4 The terms and conditions contained herein may be enforced by the Declarant., the HOA or any Owner by proceedings at law or in equity against any person or persons violating or attempting to violate the same by any owner either to recover damages or to enjoin any violation; provided however, that such actions shall be commenced within one (1) year from the date on which the violation occurred. The successful party or parties in any such action shall be entitled to recover from the unsuccessful party or parties, in addition to any damages or injunctive relief granted, all costs of the action including reasonable attorney fees.

4.5 The Declarant and the City entered into the Development Agreement, a copy of which is available from the Declarant and the City of New Berlin. In the event of any conflict between these restrictions and the City's zoning and building regulations, the stricter provisions shall apply.

ARTICLE V – Property Rights in the Common Areas

5.1 Title to Common Area. An undivided fractional interest in the Common Areas shall automatically be conveyed to each grantee of a lot in the Subdivision and any additions by the grantor of each Lot. Members shall have the rights and obligations imposed by the Declaration with the respect to such Common Areas. It is understood that the entry markers shall be located on Outlots for the benefit of the HOA and the entrance markers shall be maintained, operated and administered by the HOA.

5.2 Extent of Owner's Interests in Common Areas. The undivided interests in the Common Areas shall be subject to the following:

A. The right of the Declarant and HOA to dedicate or transfer all or any part of any Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board, provided that no such dedication or transfer, determination as to purposes or as to conditions thereof, shall be effective unless instruments signed by Members entitled to cast 51% of the votes of the membership have been recorded agreeing in such dedication, transfer, purposes or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken. Further, the HOA shall have an easement over all of the Common Areas for the purposes of repairing, maintaining and otherwise improving or modifying the Common Areas as contemplated under this Declaration.

5.3 The Common Areas shall be maintained in accordance with the Conservation Easement document encompassing Outlots.

5.4 Damage or Destruction of Common Areas by Owner. In the event any Common Area servicing the Subdivision is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents or members of his family, such Owner does hereby authorize the HOA to repair said damaged area by restoring it to the condition existing prior to damage. The amount necessary for such repairs shall become a Targeted Special Assessment upon the Lot of said Owner. Said amount shall be due and payable within thirty (30) days of the mailing by first class mail or electronic delivery of notice of the amount due by the Owner of said Lot.

5.5 Disclaimer. Declarant shall convey the Common Areas to the HOA "as is"; all warranties regarding the Common Areas, express or implied, are hereby disclaimed. The HOA shall be responsible for obtaining adequate liability insurance for the Common Areas. Declarant shall have no liability for damage or injury to any persons or property arising from the existence or continued use of the Common Areas. HOA shall indemnify and hold the Declarant harmless against any and all claims relating to, or arising from the Common Areas.

ARTICLE VI – Miscellaneous

6.1 Additional Lands. The Declarant shall have the right to subject to the rights, privileges, restrictions and covenants contained in the Declaration future additions to the Subdivision. The future additions of the Subdivision shall only include Common Areas or lands, which are adjacent to the Subdivision. The future additions shall become subject to this Declaration by the recording of an amendment to this Declaration with the Register of Deeds for Waukesha County, Wisconsin. Except with respect to adding such future additions of the development of the

Subdivision, such an amendment to this Declaration shall not revoke, modify or add to the rights, privileges, restrictions and covenants contained herein. Notwithstanding anything contained in Article IV to the contrary, such an amendment as referred to in this Article VI shall only require the consent, approval and signature of the Declarant.

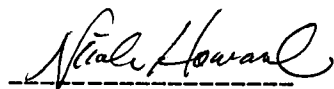
May 14, 2018

MICHAEL SANFELIPPO

Signed By Michael Sanfelippo
owner of Turnberg Estate LLC.

State of Wisconsin
County of Waukesha

This instrument was acknowledged before me on May 14, 2018
by Michael Sanfelippo.



Nicole Howard
Deputy Register of Deeds of Waukesha County
My term of office expires 1/1/2021

TURNBERRY ESTATES

Part of the Northeast 1/4, Southeast 1/4 and Northwest 1/4 of the Northeast 1/4 of Section 28, Township 6 North, Range 20 East, City of New Berlin, Waukesha County, Wisconsin.

IRPORATE MORTGAGEE

CORPORATION FULLY ORGANIZED AND VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN, DOES HEREBY ASSIGN, DIVIDING, MAPPING AND DEDICATION OF THIS PLAT, AND DOES HEREBY CONSENT TO THE MIKE SANFELIPPO, OWNER,

VICE PRESIDENT

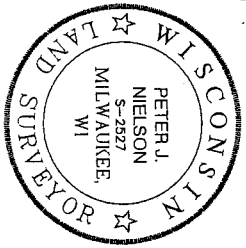
FOR ME THIS _____ DAY OF _____, THE ABOVE NAMED CORPORATION, TO ME WHO EXECUTED THE FOREGOING INSTRUMENT, AND TO OF SAID CORPORATION, AND HE/SHE EXECUTED THE FOREGOING INSTRUMENT AS SUCH OF SAID CORPORATION, BY ITS AUTHORITY.

PRINT NAME: _____
PUBLIC, _____ COUNTY, _____
MY COMMISSION EXPIRES: _____

SURVEYOR'S CERTIFICATE

I, PETER J. NIELSON, PROFESSIONAL LAND SURVEYOR, HEREBY CERTIFY THAT IN FULL COMPLIANCE WITH THE PROVISIONS OF CHAPTER 236 OF THE WISCONSIN STATUTES AND THE SUBDIVISION REGULATIONS OF THE CITY OF NEW BERLIN, AND UNDER THE DIRECTION OF MIKE SANFELIPPO, I HAVE SURVEYED, DIVIDED AND MAPPED TURNBERRY ESTATES THAT SUCH PLAT CORRECTLY REPRESENTS ALL EXTERIOR BOUNDARIES AND THE SUBDIVISION OF THE LAND SURVEYED; AND THAT THIS LAND IS LOCATED IN THE NE 1/4, SEC. 28 TOWN 6 N, RANGE 20 E, CITY OF NEW BERLIN, WAUKESHA COUNTY, WI, CONTAINING 49.12 ACRES OF LAND AND DESCRIBED AS FOLLOWS: PART OF THE NORTHEAST 1/4, SOUTHEAST 1/4, SOUTHWEST 1/4, AND NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 28, TOWNSHIP 6 NORTH, RANGE 20 EAST, CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN, DESCRIBED MORE PARTICULARLY AS FOLLOWS: COMMENCING AT THE SE CORNER OF SAID NE 1/4; THENCE S 88°55'23" W ALONG THE SOUTH LINE OF SAID 1/4 SECTION 859.90 FEET; THENCE N 1°25'02" W, 50.00 FEET, TO THE NORTHERLY LINE OF COUNTY HIGHWAY I, ALSO BEING THE POINT OF BEGINNING OF LANDS TO BE DESCRIBED; THENCE S 88°55'23" W, ALONG SAID LINE, 1091.54 FEET; THENCE N 00° 32' 37" W, 972.37 FEET; THENCE S 88° 55' 23" W AND PARALLEL WITH SAID SOUTH LINE 682.44 FEET; THENCE N 00° 34' 05" W, 620.07 FEET; THENCE N 89° 01' 03" E, 1749.99 FEET; THENCE S 01° 25' 02" E, 1589.51 FEET TO THE POINT OF BEGINNING.

DATED THIS 1ST DAY OF NOVEMBER, 2017
REVISED THIS 8TH DAY OF MAY, 2018
LAND SURVEYOR, S-2527



OWNER'S CERTIFICATE

I, MIKE SANFELIPPO, HEREBY CERTIFY THAT I HAVE CAUSED THE LAND DESCRIBED ON THIS PLAT TO BE SURVEYED, DIVIDED, DEDICATED AND MAPPED AS REPRESENTED ON THIS PLAT.
AS OWNER, I FURTHER CERTIFY THAT THIS PLAT IS REQUIRED BY S. 236.10

POOR ORIGINAL

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