


Document #	Declarations of Restrictions	4289180
<u>Declarations of Restrictions</u> FOR Hidden Hills Subdivision		REGISTER OF DEEDS WAUKESHA COUNTY, WI RECORDED ON
		July 19, 2017 11:37 AM James R Behrend Register of Deeds
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		Book Page -
		
		Recording Area
		Name and Return Address Casen J. Griffiths, Clerk/Treasurer Village of Sussex N64W23760 Main Street Sussex, WI 53089

*July 30/19  
SUKV*

This instrument was drafted by Sussex Village Administrator, Jeremy Smith based upon a model from Village Attorney John Macy.

Return to: Compass Title  
524 Bluemound Rd.  
Waukesha, WI 53188

**DECLARATION OF RESTRICTIONS  
FOR  
HIDDEN HILLS**

This Declaration is made this 9<sup>th</sup> day of June, 2017 by Hidden Hills Development, LLC, hereinafter the "Developer".

WHEREAS, Developer is the owner of the property commonly known as Hidden Hills Subdivision, in the Village of Sussex, Waukesha County, Wisconsin, more particularly described on the attached Exhibit A; and

WHEREAS, Developer desires to subject the residential lots in said Hidden Hills Subdivision to the conditions, restrictions, covenants, reservations and easements contained herein for the benefit of the said property and for the benefit of each owner of any part thereof and for the purpose of creating a desirable utilization of land in an aesthetically pleasing residential environment.

THEREFORE, the Developer hereby declares that the real property described on the attached Exhibit A, shall be held, sold, conveyed, transferred, used and improved only subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth which shall inure to the benefit of the Developer, its successors and assigns, and to all parties hereafter having any interest in the property.

**1. BINDING EFFECT AND DEFINITIONS**

This Declaration of Restrictions shall become effective immediately upon the recording hereof with respect to the property described on the attached Exhibit A.

The terms "Hidden Hills", "Hidden Hills Development" and "Subdivision", as used in this Declaration of Restrictions, are defined as the property described on the attached Exhibit A.

The term "Lot" as used in this Declaration is hereby defined as each separate buildable parcel of real estate existing now or in the future which is created by any land division done in accordance with all applicable laws and regulations, and in compliance with all restrictions set forth in this Declaration, of the lands subject to this Declaration.

The terms "Common Area" or "Outlot" are defined as any outlot, boulevard, detention or retention area, or other area within the subdivision which is not a lot nor a dedicated street nor other dedicated area for which the Village of Sussex has assumed responsibility for maintenance. Each owner of a lot shall have an undivided 1/39th ownership interest in the common outlots and the Owner's Association shall be responsible for the maintenance of all common areas and common outlots. The Owner's Association will be responsible for the repair or maintenance of any monument or common landscape amenity that is installed in a public right of way. This includes damage that may occur during Village maintenance operations such as snowplowing.

## 2. GENERAL PURPOSE

The general purpose of these restrictions is to assure that Hidden Hills will become and remain an attractive, high quality residential community and to that end to preserve and maintain the natural beauty, to insure the best use and the most appropriate development and improvement of building sites within the property; to protect owners of building sites against such use of surrounding sites as may detract from the residential value of their property; to guard against and prevent the erection of poorly designed or proportioned structures on any part of the property; to obtain harmonious use of materials and color schemes in improvements; to insure the highest and best residential quality of the property; to encourage and secure the improvements of the property with attractive homes with appropriate locations thereof on the building sites; to secure and maintain proper spatial relationships of structures to other structures and lot lines; and generally to insure the highest and best residential development of the property.

## 3. INTERPRETATION

It is inherent to protective covenants and restrictions that from time to time those covenants and restrictions are subject to interpretation. In those instances wherein an interpretation is required because there is no definitive rule to be followed, or because there is a question regarding an intangible concept such as, but not limited to, what constitutes harmonious architectural design, what is poor design or proportion and what is aesthetically pleasing, the matter shall be subject to the opinion of the Architectural Control Committee for the granting of a final approval.

## 4. ARCHITECTURAL CONTROL COMMITTEE

An Architectural Control Committee (hereinafter the "Committee") for Hidden Hills Subdivision is hereby established. The Committee shall consist of not less than three members, designated as hereinafter set forth. The decision of the majority of the members of the Committee shall be final and binding upon all parties. The Committee members shall not be entitled to compensation for services performed pursuant to this paragraph. The initial members of the Committee shall be appointed by the Developer, and the Developer shall be entitled to remove and replace members of the Committee, at its sole discretion, as long as there remains any vacant lot in the subdivision; thereafter, the Committee shall consist of the Board of Directors of the Owner's Association, established as hereinafter set forth, provided said Owner's Association is in existence. If the Owner's Association is not legally in existence at any time after which there is no longer any vacant lot in the subdivision, the Committee shall continue in existence with its then existing members, and Committee members shall be subject to removal, replacement and/or appointment as follows: by majority vote of the Committee members in attendance at a Committee meeting called by any one or more Committee members for that purpose; and/or by majority vote of lot owners in attendance at a meeting of lot owners called by any one or more lot owners for that purpose. Lot owner meetings called to remove, replace and/or appoint Committee members shall require not less than 10 days written notice to at least one owner of each lot, by personal delivery or by First Class U. S. Mail addressed to the last known owner and address as shown on the Tax Roll.

## 5. ARCHITECTURAL CONTROL

No building, swimming pool, gazebo, fence, wall, driveway, tennis court, light post, landscaping or other structure or improvement shall be constructed, erected, placed or altered on any lot in Hidden Hills Subdivision without the approval of the Architectural Control Committee. For any undertaking requiring approval of the Architectural Control Committee, three sets of plans [including building construction plans (with roof, siding, brick, stone, stucco and trim colors), site plans, and grading plans (where necessary)] shall be submitted to the Architectural Control Committee. If and when plans are approved, two sets of the approved plans shall be signed, dated, and returned by the Architectural Control Committee to the lot owner as evidence of such approval. Any changes or revisions required by the Architectural Control Committee shall first be made to the plans by the owner's agent before approval is given. Once the Architectural Control Committee's approval has been given the plans shall be strictly adhered to by the lot owner, unless subsequent changes are approved by the Architectural Control Committee. Landscaping plans shall be done by a professional designer and submitted prior to any work being started.

In passing upon the plans and specifications, the Committee may take into consideration the suitability of the proposed building or other structure or improvement, its design, elevation, color, construction materials, the harmony thereof with surrounding buildings, its proposed location, the view from other properties in the subdivision, and such other matters of terrain, environmental impact, aesthetics, and impact upon other lots in the subdivision as the Committee may deem appropriate. The Committee shall have the right to waive minor infractions or deviations from these restrictions in the case of hardship and/or other reason. Any action by the Committee shall be final and conclusive as to all persons then or thereafter owning lots covered by these restrictions. The Committee shall not be liable for actions taken or decisions made in good faith.

In addition to the requirements of these restrictions, all construction shall comply with applicable zoning and building code requirements. It is not intended that the Committee have full knowledge of, or expertise in, matters of zoning, building codes or proper drainage. The Committee shall have no liability or responsibility in the event it approves plans which fail to comply with applicable zoning or building codes, and/or which fail to properly handle drainage. In the event that approved plans violate applicable zoning or building codes, or fail to properly handle drainage, it shall be the sole responsibility of the lot owner to discover and determine the error, to have the appropriate corrections made to the plans, and to resubmit the corrected plans to the Committee for its approval.

## 6. DWELLINGS AND OTHER STRUCTURES

All lots shall be used only for single-family residential purposes, and such recreational purposes permitted by this Declaration and applicable zoning. All dwellings shall be designed by a home designer, registered architect or equally qualified individual or firm.

It is specifically intended, by the architectural control provisions set forth herein, that there be a compatibility of architectural styles amongst the various homes that are in close visual proximity to one another, while at the same time retaining diversity so as to avoid the monotony of duplication. Toward this end, the Architectural Control Committee may evaluate and approve the use of a particular architectural style of home on any given lot in the subdivision. In making that evaluation the Architectural Control Committee may consider the proposed residence in

relation to existing homes or previously approved (conceptual or final) homes that will be in close visual proximity to the proposed residence.

A minimum of 30% of the front of the residences must be masonry, consisting of brick, stone, cultured stone/brick, Dryvit, stucco and/or stucco panels, and must terminate at an inside corner or have an acceptable terminating point, as determined solely by the Architectural Control Committee. The other sides of the home's exterior siding shall consist of cement board siding, natural stone, cultured stone, brick or stone, Dryvit, stucco and/or stucco panels (vinyl or aluminum siding is not allowed). Additional brick, stone, cultured stone/brick, Dryvit, stucco and/or stucco panels, may be required on other elevations of the home, at the sole discretion of the Architectural Control Committee. Further, the Architectural Control Committee, in its sole discretion, shall have the right to permit or prohibit the use of cedar, composite wood, and/or other types of siding as it may deem appropriate to preserve the architectural integrity and quality appearance of dwellings in the subdivision. Aluminum or vinyl soffits and fascia may be allowed. No exposed poured concrete or concrete block over eight (8) inches above grade shall be permitted on any house. Any exposure over eight (8) inches, below the first floor, must be covered by brick and/or stone, Dryvit, stucco or cultured brick or stone, stucco panels, or siding. The roofing of all dwellings shall consist of dimensional asphalt shingles in Weatherwood color only. The Architectural Control Committee, in its sole discretion, may permit or prohibit the use of other types roofing materials (such as fiberglass shingles, woodshake, tile, natural stone, or metal) having substantially the same appearance as the permitted materials, as it may deem appropriate, to preserve the architectural integrity and quality of appearance of dwellings in the subdivision. Further, the Architectural Control Committee may, in their sole discretion, permit the use of such other forms of high quality and aesthetically pleasing roof materials as may be available now or in the future, including but not limited to masonry and/or copper for accent areas only. The main portion of the roof shall have a minimum pitch of 8/12 for a two-story and 10/12 for a ranch style home. A lesser pitch over other areas, such as porches, breezeways and bays, may be permitted or denied at the sole discretion of the Architectural Control Committee. True prairie style designs as determined by the Architectural Control Committee will allow lower roof pitches.

If shutters are used, then the ACC may require them to be used on all elevations. Window wraps and window grids must be used on all windows unless architectural style and ACC allows the elimination of these features.

All homes shall include an attached garage with a minimum of 400 square feet. The Architectural Control Committee, at its sole discretion, may prohibit any attached garage, which has an exterior appearance of having a capacity of more than 3 cars. Garages are to be side entry where possible. Angled & front entry garages may be permitted for hardships based on home layout at the sole discretion of the Architectural Control Board. No detached garages shall be permitted.

No storage shed shall be allowed on any lot. Other types of outbuildings, such as pool equipment and/or changing room facilities may be allowed, providing they are approved, as to design, location and landscaping, by the Architectural Control Committee. No outbuilding shall be constructed on any lot prior to the commencement of construction of the single-family residence on such lot. All lot owners are further advised that outbuilding construction is also subject to applicable zoning ordinances, and may be prohibited or restricted unless a variance or conditional use permit is obtained.

## 7. MINIMUM SQUARE FOOTAGE REQUIREMENTS

Houses constructed in Hidden Hills Subdivision shall have a minimum square footage of living space as follows:

- i. One-story houses shall have a minimum square footage of living space of not less than 2,000 square feet.
- ii. Two-story houses shall have a minimum square footage of living space of not less than 2,800 square feet total.

Living space is determined by the outside dimensions (exclusive of garages, porches, patios, breezeways and similar additions) of the exterior walls of above grade, finished living space. In no event shall floor space which is partially or completely below finished yard grade (such as basement space, whether or not exposed, and/or the lower level of a split level) be counted for purposes of determining minimum square footage of living space. The minimum square footage shall be determined as of the time of initial construction, and shall not consider or include unfinished areas or future additions.

The Architectural Control committee, in its sole discretion, may grant approval for any house on any lot with square footage up to five percent (5%) less than the minimum required above, provided; however, in no event shall any house be constructed on any lot with square footage below the minimum standard of the Village of Sussex.

## 8. COMMENCEMENT OF AND COMPLETION OF CONSTRUCTION

Before any construction shall be commenced on any lot the driveway shall be rough graded in a horizontal location and with a vertical alignment as approved by the Architectural Control Committee. All access to and from the home site construction area by material suppliers, contractors and other individuals shall be by this driveway location and no other means or way. This covenant is primarily for the protection of natural amenities of the site.

Any exterior construction commenced shall be completed within a one-year period and shall be ready for occupancy within that period. Also, within six (6) months of occupancy or within one and one-half (1 ½) years of the commencement of construction, whichever date shall be shorter, the owner of such lot shall landscape any area disturbed by construction, and shall complete all landscaping in accordance with the plans and specifications approved by the Architectural Control Committee.

During the time of construction the lot owner shall be responsible to see that his or her contractor maintains a constant cleanup of all scraps, paper or other waste materials, and all dirt and mud tracked onto public streets, and that all access to the site is through the approved driveway, and by no other means or way. The lot owner shall further be responsible for the repair of any and all damage to the public right-of-way adjacent to the lot, including but not limited to any pavement, sidewalk, curb, gutter, ditch, swale and/or culvert, and to any drainage ditches, swales and/or other drainage facilities on the lot, occurring prior to completion of construction. In the event that the owner or his contractor shall fail in this responsibility the Developer shall have the right to perform the necessary cleanup and/or make the necessary repairs and to charge the construction deposit and/or obtain reimbursement for the expense incurred by the Developer or Owner's Association, as the case may be, as set forth in Paragraph 9 below.

During any earth moving activities, proper erosion control practices shall be installed to prevent sediment entering storm water drainage ways or leaving the immediate construction site. Erosion control including the stabilization of each lot with permanent grass must comply with the Village of Sussex Erosion Control Ordinance.

## 9. CONSTRUCTION DEPOSIT

At the time of closing on a Lot a Construction Deposit in the amount of Two Thousand Dollars (\$ 2,000.00) shall be collected from the Lot owner and held by the Developer. These funds are transferable to subsequent buyers of a Lot after the initial sale by Developer. These funds are to ensure compliance with these covenants and restrictions dealing with contractor cleanup, use of the approved driveway and repair of damage to pavement, sidewalks, curbs and gutters, to ensure compliance with the landscaping and tree planting requirements set forth in this Declaration, and to assure compliance with the architectural covenants, restrictions and requirements contained herein and as approved by the Architectural Control Committee. In the event the Lot owner and/or his or her contractors fail to comply with the cleanup requirements and/or the use of the approved driveway, and/or repair of any damaged sidewalks, curbs and/or gutters and/or the landscaping and tree planting requirements set forth in this Declaration, and in the event the Developer or Owner's Association, as a result of such noncompliance, undertakes any cleanup or repair and/or is charged or assessed by the Village of Sussex for same, the Developer or Owner's Association shall be entitled to deduct and retain from the Construction Deposit a sum sufficient to reimburse Developer or Owner's Association for all costs and expenses incurred by Developer or Owner's Association for such cleanup and/or repair. Developer alternatively has the right to keep the entire deposit and not undertake the repair. In the event the Lot owner and/or the Lot owner's contractors fail to comply with the architectural or other requirements or provisions of the Declaration, and in the event Developer or Owner's Association retains an attorney to pursue enforcement of said requirements and/or provisions, the Developer or Owner's Association shall be entitled to deduct and retain from the deposit a sum sufficient to reimburse Developer or Owner's Association for all costs and expenses, including but not limited to a reasonable actual attorney's fees, incurred by Developer or Owner's Association with respect to such enforcement. In the event the deposit amount is not sufficient to fully reimburse Developer or Owner's Association for cleanup and/or repair expenses, charges and/or assessments, and/or for costs, expenses and reasonable attorney's fees relating to enforcement of architectural requirements, the owners of the lot shall be jointly and severally liable to Developer or Owner's Association for any excess and shall constitute a lien on the Lot. Developer alternatively has the right to keep the entire deposit and not undertake the repair. In the event that no deductions are made, or in the event there is a balance remaining after all deductions, upon the owner's request, the balance in the escrow account shall be returned to the current owner so long as the final lift of asphalt has been completed in the Subdivision. In order for such request to be valid, said request must be submitted in writing to Developer within two years of the lot purchase from the Developer, home construction must be complete, and a lawn must be established, as required in Section 19 of these Restrictions must be completed; failure to do so will result in forfeiture of said deposit.

## 10. TREES AND LANDSCAPING

Each Buyer is generally required to purchase and install two (2) street trees (corner lots will require four (4) street trees) at front of each lot per Exhibit G-2 of the Developer agreement and trees must be a minimum of 2½" caliper at chest height with species approved by the Architectural Control Committee and in compliance with Exhibit G-2. The Lot owner is

responsible for protecting and maintaining said trees, including watering, mulching and fertilizing as needed. In the event the Lot owner fails to properly protect and maintain said trees, the lot owner shall promptly replace any dead or dying tree, and shall continue to protect and maintain same.

Landscaping, consisting of a mix of evergreens, trees and shrubs, are being installed on and along Maple Ave.. The Owner's Association is responsible for the maintenance of such landscaping, including trimming, watering, mulching and fertilizing as needed. The Owner's Association shall replace any dead or dying tree or shrub as necessary.

Additional landscaping and a possible subdivision entrance monument will be installed at the entrance. The Owner's Association will maintain this landscaping and monument.

The Owner's Association shall also be responsible for the care and maintenance of any trees or shrubs planted on the cul-de-sacs or outlots.

No existing live tree with a diameter of eight inches or more at a height four feet above ground shall, without approval of the Architectural Control Committee be cut down, destroyed, mutilated, moved or disfigured. All existing trees shall be protected during construction and preserved by wells or islands and proper grading in such a manner as may be required by the Architectural Control Committee. Existing live trees with a diameter of eight inches or more at a height four feet above the ground shall be considered by the Architectural Control Committee in granting approval for the location of the house, driveway and any and all other structures on any lot. A number of lots in the Plat of Hidden Hills contain areas which are subject to a Tree Preservation Easement. As depicted and described in the Plat, those easement areas are subject to the following restriction:

1. The removal or destruction of any vegetative cover, i.e., trees, shrubs, grasses etc. is prohibited, with the exception that dead, diseased or dying vegetation may be removed, at the discretion of the landowner and with approval from the municipality in which this land is located. Silvicultural thinning, upon the recommendation of a forester or naturalist and with approval from the municipality in which the land is located, shall also be permitted. The removal of any vegetative cover that is necessitated to provide access or service to an approved residence or accessory building, shall be permitted only when the access or service cannot be located outside of the Tree Preservation Easement and with the approval of the municipality in which this land is located.
2. Grading, filling and removal of topsoil or other earthen material are prohibited unless specifically authorized by the municipality in which this is located.
3. The introduction of plant material not indigenous to the existing environment is prohibited unless specifically authorized by the municipality.



## 11. BUILDING SETBACKS

It is one of the intentions of the covenants and restrictions to create a completed community whose site plan is varied and well integrated to the overall site surroundings as well as the specific lot.

All lot setbacks shall be approved in writing by the Architectural Control Committee. The minimum setbacks for a Single – Family Residence shall be:

1. Thirty (30) feet from any front yard.
2. Fifteen (15) feet from any side yard.
3. Twenty-Five (25) feet from any rear yard.

If any lot owner desires to rotate its proposed single-family residence to face toward the corner of a lot, the Architectural Control Committee reserves the right to determine the street yard setbacks that the declarant believes to be most beneficial to the overall appearance of the subdivision.

The site plan for each lot will be reviewed with respect to achieving the above goals and avoiding monotony or noticeable similar placement of homes to those existing or previously approved. In achieving these goals, offsets greater than those specified above may be required by the Architectural Control Committee. Further, the Architectural Control Committee, in its sole discretion, may alter the offsets to the minimum allowed by the Village of Sussex if it determines, in its sole discretion, that terrain conditions and/or preservation of existing trees so require. Other zoning restrictions may apply.

## 12. DRIVEWAYS

The owner of each lot shall, within six (6) months of the date of issuance of an occupancy permit of a residence on a lot, install a hard surfaced concrete, brick or stone paver, or asphalt driveway. Said driveway shall extend from the vehicle entry to the garage to an intersection with the public street.

## 13. HEIGHT OF GRADE AND BUILDING PADS

No owner of any lot, nor any person or persons claiming under the lot owner, shall or will at any time alter the grade of any lot or outlot from that which is naturally occurring on that lot at the time the site development improvements have been completed by the Developer, except to the extent required to comply with the Master Grading Plan or any amendment thereto approved by the Village of Sussex Engineer on file in the office of the Village of Sussex Clerk, unless and until the property owner shall first obtain the written approval of the Architectural Control Committee and the Village of Sussex for such grade alterations.

In order to obtain this approval it shall first be necessary for the property owner, at his or her expense, to have prepared a grading plan which shows in detail the area to be re-graded, the existing and proposed topography, analyzes the effects on site drainage, and is a plan which does not unreasonably affect an adjacent lot owner as regards drainage or their viewing of unreasonable slope treatment.

Each lot owner must strictly adhere to and finish grade their lot in accordance with the Master Lot Grading Plan or any amendment thereto approved by the Village of Sussex Engineer on

file in the office of the Village of Sussex Clerk. The Committee and/or the Village of Sussex 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, correction of any drainage condition, and the lot owner is responsible for cost of the same.

Subdivision grading has been performed with the intention that home construction on each lot take place within a building pad area as shown on the Master Grading Plan. Construction of the home and/or other improvements beyond the limits of such building pad area may result in an increased risk of encountering adverse subsoil conditions.

#### **14. NUISANCES**

No noxious or offensive activities shall be carried on upon any lot or outlot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

#### **15. OUTDOOR STORAGE**

No boat, unlicensed vehicle, inoperable vehicle, recreational vehicle, vehicle licensed as a truck, or trailer of any kind may be parked or stored on any lot outside of a building for any time period in excess of 24 hours in any calendar week, except for trucks and/or trailers used during construction or remodeling periods unless approved by the ACC. The ACC shall have the authority to restrict outdoor storage of any vehicle, or object, that it may deem unacceptable, from an appearance standpoint. The term "recreational vehicle" shall mean any vehicle used primarily for pleasure or recreation, and shall include, but not be limited to: snowmobiles, trail bikes, travel trailers and campers, motor homes, and off road vehicles of any kind.

#### **16. UTILITY RESTRICTIONS**

All lots shall be provided with electric, natural gas, and telephone (not necessarily cable) service by means of underground installation only. No residence or other building or structure on any lot shall be serviced by the use of any secondary overhead service wires. All costs and expenses involved in installing underground utility service connections on any lot between the utility companies' secondary pedestals and the buildings on any lots shall be paid by the owner of said lot.

#### **17. ANIMALS AND LIVESTOCK AND POULTRY**

No animals, livestock or poultry shall be raised, bred or kept on any lot, except that dogs, cats and/or other customary household pets shall be permitted provided they are not raised, bred and/or kept for commercial purposes.

#### **18. SIGNS**

No sign of any kind shall be displayed to the public view on any lot except one sign not more than two square feet in size identifying the property of the owner, one sign not more than six square feet in size advertising the property for sale or rent, a sign used by a builder to advertise a residence for sale, or as a model home, but only during the construction and sales period, such signs as may be used by the Developer in conjunction with initial lot sales in the subdivision, or one or more subdivision entrance signs erected by the Developer and/or by the

Association. A larger model home sign, not to exceed 12 square feet may be allowed with Architectural Control Committee approval.

**19. LAWN AND YARD**

In addition to the normal maintenance and mowing of lawn areas on a lot, the owner of each lot shall also maintain the 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. In addition to mowing the area between the lot line and the road, the lot owner shall keep this area free of debris and in all other ways properly maintained. Notwithstanding the foregoing, the Association, in its sole discretion, shall have the right, but not the responsibility, to undertake mowing and/or other lawn maintenance within the common areas, as created by this Declaration, together with the area between the front lot line and the road, throughout the subdivision, and to charge the cost thereof as a common expense.

**20. ANTENNAE**

No exterior antennae, other than one dish type antenna not exceeding thirty (30) inches in diameter, shall be allowed on any lot.

With respect to dish antennas not exceeding thirty (30) inches in diameter, they shall not be attached to the front of any house, nor shall same be located in the front yard of the residence.

**21. FENCES**

It is the intention to preserve the open natural feeling of Hidden Hills Subdivision's environment. Therefore, no barrier fences or containment fences may be erected on or adjacent to any lot line except as a landscape element and/or as approved by the Architectural Control Committee. With regard to swimming pools, only fencing required to meet governmental regulations and approved by ACC will be permitted.

**22. MAILBOX**

Each lot shall have a uniform mailbox and newspaper box on a uniform post that will be installed by Developer and located per the U.S. Post Office. The design and specifications of the mailbox, newspaper box and post, including size, style, color and materials, shall be such as is determined by the Architectural Control Committee, so that all mailboxes, newspaper boxes and posts have a uniform appearance throughout the subdivision. Purchasers of lots from the Developer shall reimburse the Developer for the mailbox and mailbox post at time of closing. The Owner's Association will assume all of the responsibility for maintaining, repairing and/or replacing mailboxes, newspaper boxes and/or posts, and to charge the cost thereof as a common expense.

**23. ELECTRIC LAMPPPOST**

At the time of construction of a residence, the owner of residence shall install, at the owner's expense, one (1) outdoor electric lamppost (the design and quality of which shall be specified by Declarant), with an unswitched photoelectric cell, at a location on the lot deemed appropriate to the subdivision, at the Declarant's discretion. The lamppost shall be maintained by the owner, at the owner's expense, in a proper operating manner. If the owner fails to maintain the lamppost in proper operating order, maintenance of the lamppost may, fifteen (15) days after

date of mailing of written notice to the owner, be performed by the Declarant and/or the Association, and the cost of such maintenance shall be a Special Assessment against the owner.

#### **24. SIDEWALKS**

Certain lots within Hidden Hills Subdivision will have sidewalks. Lot owners with a sidewalk will be responsible for the care and maintenance of the sidewalk placed within the street right-of-way by their lots. This will include maintenance such as snow removal and sweeping as necessary. The lot owner, during periods of construction, will be responsible for the protection and replacement of damaged sidewalk as necessary. If necessary, Lot owners will be required to replace sidewalks as directed by the Village of Sussex.

#### **25. EASEMENTS**

The Developer at its sole discretion may grant easements to the public utilities that will service the lots at Hidden Hills Subdivision.

#### **26. SWIMMING POOLS AND HOT TUBS**

In-ground swimming pools shall be permitted, subject to the approval of the Architectural Control Committee, if they meet Village and County ordinances and specifications. Above ground swimming pools are prohibited. Hot tubs and spas are permitted only if they are permanent. Architectural Control Committee approval is required for all units. If placed on a concrete slab, the slab requires approval as well. Portable units are not allowed.

#### **27. GOVERNMENT RESTRICTIONS**

The Developer, its successors and assigns, and all parties hereafter having an interest in the property, are subject to all rules, codes, regulations and ordinances of the Village of Sussex, Waukesha County, the State of Wisconsin and the Federal Government, and the same may be more restrictive than these restrictions. In the event there is a conflict between the requirements of these restrictions and any provision of any Village, County, State or Federal law or regulation, the more restrictive provisions shall apply. Nothing herein authorizes any modification of, nor does it authorize the Architectural Control Committee to modify in any way, the rules, codes, regulations and ordinances of the Village of Sussex, Waukesha County, the State of Wisconsin and the Federal Government. No release or waiver by the public body and/or public utility requiring same shall be effective unless it is in writing and approved by the governing body.

To the extent that any specific restriction contained herein is the same as, or is substantially similar to, any specific restriction set forth in or on the subdivision plat, the Developer's Agreement, and/or any approval obtained in conjunction with the development of this subdivision, the inclusion of such restriction herein shall be deemed to constitute the recitation of the restriction required by the public body and/or public utility requiring same, such that same may be enforced, released or waived by the public body and/or public utility having the right of enforcement, in accordance with Sec. 236.293, Wis. Stats., whether or not enforcement rights with respect to such specific restriction are also granted herein to the Owner's Association and/or any other lot owner. The foregoing shall apply only with respect to specific provisions hereof which were specifically required by a public body, and shall not apply to any general requirement that the Developer establish subdivision restrictions, any general approval of these

restrictions by any public body, and/or the mere fact that a public body and/or public utility is granted any enforcement rights herein.

**28. SUBDIVIDER'S AGREEMENT**

A Subdivider's Agreement (Developer Agreement) has been entered into by and between the Developer and the Village of Sussex, a copy of which is on file in the office of the Village Clerk of the Village of Sussex.

**29. AMENDMENTS TO DECLARATION**

This Declaration may be annulled, waived, changed, modified or amended solely by the Developer or assigns as long as the Developer or assigns owns any lot in the subdivision. Then thereafter, any modification to this declaration setting forth said change, must be executed by the owners of at least sixty percent (60%) of the lots in the subdivision. Notwithstanding the foregoing, annulments, waivers, changes, modifications or amendments, which constitute an amendment to Hidden Hills RS-2 with PUD overlay zoning must be approved by the Village Board of the Village of Sussex or if so delegated by the Village Board, the appropriate village personnel or committee. Further, no amendment shall become effective unless and until same is duly recorded in the office of the Register of Deeds for Waukesha County, Wisconsin. In the event there is more than one (1) owner of any lot in the subdivision, the execution of any amendment by any one (1) or more of said owners of such lot shall be deemed sufficient for the purpose of approving and executing any amendment, without the requirement that the other owner(s) of such lot join in the execution of such amendment, unless such other owner or owners of said lot have recorded in the Office of the Register of Deeds for Waukesha County, Wisconsin, prior to the date of execution of such amendment by any other owner of such lot, a notice setting forth the fact that approval of any amendment on behalf of such lot shall not be effective without the approval of the owner filing such notice. In no event shall this section be construed so as to require the Developer to obtain the approval of any lot owner to make any amendment to this Declaration, which is expressly permitted by any provision of this Declaration to be made by Developer alone.

**30. ASSIGNMENT**

All Developer's rights pursuant to this Declaration may be assigned by Developer to one or more successor parties.

**31. ENFORCEMENT**

The restrictions and covenants herein contained may be enforced by the Developer, by the Owner's Association created pursuant to the provisions of this Declaration of Restrictions, and/or by any lot owner in the subdivision, by proceedings at law or in equity against any person or persons violating or attempting to violate same. The proceedings may seek to recover damages and/or demand compliance. No enforcement action by the Developer, by the Owner's Association created pursuant to the provisions of this Declaration of Restrictions, and/or by any lot owner in the subdivision with respect to the construction, placement or alteration of any structure or improvement on any lot shall be commenced more than one (1) year after the completion of the construction, placement or alteration of such structure or improvement. Nothing herein contained shall be construed so as to require that the Developer or the Owner's Association undertake any enforcement action.

**32. TERM**

These restrictions shall run with the land and shall be binding upon all parties and persons having any interest in the land affected hereby for an initial period of forty (40) years from the date this Declaration of Restrictions is recorded, and thereafter shall continue for the full duration of the statutory limitation period for actions to enforce easements or covenants restricting the use of real estate (currently codified at Section 893.33 (6), Stats, but including any future amendments, modifications or re-numbering of that section).

This section does not terminate, and shall not be interpreted to authorize termination of, any drainage easements, pond maintenance requirements, or other restriction herein that affects a matter of interest to the Village of Sussex, and the duration of any such restriction shall be unlimited and perpetual, unless terminated by the benefitted political subdivision by recorded document.

**33. SEVERABILITY**

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.

**34. OWNER'S ASSOCIATION**

An Owner's Association shall be created by the Developer for the purpose of managing the affairs of the subdivision, and for the purpose of managing, controlling and maintaining common areas, common improvements and common easements. Said Association shall be established as follows:

- A. The Association shall be established as either a non-profit corporation or a non-profit association. Each lot owner shall be a member of the Association, and each lot shall be entitled to one (1) vote at meetings of the Association. Membership shall pass with title to each lot.
  
- B. The Association shall be governed by a Board of Directors, consisting of not less than three (3) directors, who shall act by majority vote of these directors on all matters related to common area maintenance, collections, annual dues, billing, etc. The Board of Directors may take a full subdivision vote on any item they feel is needed at their discretion. So long as any lot in the subdivision is owned by Developer, Developer shall be entitled to appoint a sufficient number of the directors such that the directors appointed by Developer constitute a majority.
  
- C. Each lot in the subdivision shall be subject to assessment by the Association for an equal share of the Association's existing or anticipated expenses, which assessments shall constitute a lien on the lot, and, except as set forth below with respect to Waukesha County and/or the Village of Sussex, the personal obligation of the lot owners, until paid. In the event Waukesha County and/or the Village of Sussex become the owners of any lot through the tax delinquency process, the foregoing provision shall not be deemed to supersede

any law limiting or eliminating the liability of the County or the Village with respect to fees or assessments imposed by this Declaration. Further, in the event Waukesha County and/or the Village of Sussex become the owners of any lot through the tax delinquency process, neither the County nor the Town shall have any personal obligation for the payment of Association assessments.

D. "Special Assessments" may be made and levied by the Association against a particular Lot owner and his, her or their lot (without levying against other lots) for:

costs and expenses (anticipated or incurred) for repair of damage to common areas caused by or at the direction of the Lot owner or the family or guests of the Lot owner;

costs, expenses and actual attorneys fees incurred in, or in anticipation of, any suit, action or proceeding to enforce this Declaration against the Lot owner; interest due on general or special assessments;

all other costs and expenses anticipated or incurred by the Association which are subject to special assessments as provided under this Declaration; and costs, expenses and actual attorney's fees incurred in or in anticipation of, any suit, action or proceeding brought against the Owner's Association.

E. "General Assessments" may be made and levied by the Association equally against each Lot owner and his, her or their lot for the following "common expenses" which may be anticipated, incurred or paid by the Association for:

maintenance, repairs, upkeep or operation of common areas and any additional common areas that may be acquired by the Association;

any insurance maintained by the Association;

taxes, assessments and charges of any kind made or levied by any governmental authority against the Association or upon any property of the Association;

all costs and expenses for the operation and administration of the Association, including legal, accounting, management fees, bonding, insurance and other costs incident to the exercise of any of its powers or obligations;

costs and expenses for additional improvements to common areas beyond those installed by Developer and approved by the Association;

all items subject to special assessment which have not been collected from a Lot owner at the time such payments are due; provided that upon collection of the special assessment from that Lot owner, all other Lot owners shall receive an appropriate adjustment, reimbursement or credit on future general assessments, as the Committee may determine, for payments made under this paragraph;

all damages, costs, expenses and attorneys fees incurred in, or in anticipation of, any suit or proceedings (whether administrative, legislative, judicial) which are not otherwise collected by special assessment;

costs and expenses of service, if any, made available to all lots and/or for any common area;

all other costs and expenses declared to be common expenses under this Declaration.

The general assessments for all common expenses shall be levied equally against each lot.

Each Lot owner shall promptly pay, when due, all general and special assessments levied by the Association against such owner and his, her or their lot, together with all costs, expenses and reasonable attorney fees incurred by the Association in collection of any delinquent assessment(s). All assessments shall become due as the Association may determine appropriate (in a lump sum or in installments with or without interest.) Time is of the essence with respect to all payments.

All co-owners of a lot shall be jointly and severally liable for all general and special assessments levied against the lot, regardless of the type of tenancy, estate or interest in the lot (whether as joint tenants, tenants-in-common, land contract purchaser(s) or seller(s), or otherwise.)

All general and special assessments which are not paid when due: shall bear a \$25 per month penalty plus interest at eighteen percent (18%) per annum until the assessment is paid in full; shall constitute a lien on the lot; and shall be collectible and enforceable by the Association by suit against the lot owner, by foreclosure or the lien, and/or in any other manner or method provided under this Declaration or laws of the State of Wisconsin.

The lien granted hereunder shall also cover and include all interest accruing on the delinquent assessments, plus costs, expenses and attorney's fees incurred for collection.

The Association shall have the exclusive right and power to collect or enforce collection of all general and special assessments levied by the Association. They shall further have the exclusive right to bring any and all actions and proceedings for the collection thereof and/or the enforcement of liens arising therefrom. The Association may bring an action at law against any Lot owner personally to collect such assessments and/or to foreclosure the lien for such assessments against the lot (in the same manner and method as an action to foreclose a real estate mortgage.) The Association shall have the right at any time to notify all lot owners within the subdivision of the delinquency of any Lot owners.

F. The Articles and By-Laws of the Association shall contain such additional provisions, as Developer may deem appropriate at the time of establishment of the Association.



G. In the event any further division of any lot (whether by Subdivision Plat, Certified Survey Map, and/or other legal land division) creates additional residential lots within the subdivision, each lot so created shall have equal membership and voting rights in the Association, and be subject to assessment for an equal share of the Association's existing and anticipated expenses, with all other lots in the Subdivision.

**35. OUTLOT 1.**

Hidden Hills Subdivision Plat Contains common areas designated as outlot 1. Each lot in Hidden Hills shall be deemed to include an equal undivided ownership interest in the outlot and each conveyance of a lot in Hidden Hills shall be deemed to include the conveyance of such undivided interest, whether or not specifically set forth in the instrument of conveyance. Developer further expressly retains the right to grant easements for the use of said outlot. The Developer may add additional lands and outlots to the Association at a later date.

**36. MAINTENANCE OF DRAINAGE EASEMENTS, PONDS, COMMON AREAS, SUBDIVISION SIGNAGE AND MONUMENTS AND STREET LIGHTS**

The Owner's Association has the responsibility to properly landscape and maintain all common areas, street islands, trails and subdivision entrance signage within the subdivision, all portions of any entrance signs, entrance monuments, fencing and the landscaping associated with same which are located in whole or in part within any Village of Sussex right-of-way, and all non-standard street signs and streetlights. Said maintenance includes repair or replacement resulting from damage caused by any reason including snowplowing operations. Further, the Association without regard to reason, shall indemnify and hold the Village harmless for any claim of liability or damage, regarding the signs, monuments, fencing or associated landscaping located within Village right-of-ways. Subject to the provisions of Paragraph 37, the Owner's Association further has the responsibility of properly maintaining all drainage easement areas located within the individual lots which are subject to this Declaration of Restrictions and the ponds and all drainage easement areas within common areas. Maintenance of the ponds shall include, but not necessarily be limited to, preservation of the embankments; prevention of erosion above the ponds, around the ponds and downstream therefrom; and dredging if and when necessary. In the event the Owner's Association does not properly landscape, repair and/or maintain common areas, street islands, ponds and subdivision entrance signage within the subdivision and/or drainage easement areas on individual lots and/or within common areas, and/or entrance signs, entrance monuments, fencing and the landscaping associated with same which are located in whole or in part within any Village of Sussex right-of-way, and/or non standard street signs and streetlights, the Village of Sussex may send written notice to the Association setting forth which of said items the Village of Sussex has determined are not properly landscaped, repaired and/or maintained, and stating that the Village of Sussex may perform such landscaping repair and/or maintenance if not properly done by the Association. The above-referenced notice shall give the Association a minimum of thirty (30) days to correct the problem, unless the Village determines, in its discretion, that a shorter notice period is appropriate due to a hazardous condition requiring more immediate action. If at any time, the Village Board for the Village of Sussex should determine, for any reason whatsoever, that the entrance signs, entrance monuments, fencing and/or associated landscaping within a right-of-way should be removed, the Village of Sussex may send written notice to the Association setting forth which of said items the Village of Sussex has determined must be removed, and stating that the Village of Sussex may perform such removal if not properly done by the Association. The above-referenced removal notice shall give the Association a minimum of sixty (60) days to perform such removal. If such landscaping,

repair, maintenance and/or removal is not performed within the time granted by either of the above-referenced notices, and/or if the Village determines, in its discretion, that immediate action, without notice, is required due to an imminent threat of damage to persons or property, the Village of Sussex shall then have the authority, but not the obligation, to undertake such landscaping, repair, maintenance and/or removal and shall have the right to charge the lot owners on a pro rata basis for any costs incurred by the Village as a result of said landscaping, repair, maintenance and/or removal. Said costs shall be assessed as special charges pursuant to section 66.0627, Wis. Stats. If such charges are not paid by any lot owner within the period fixed by the Village of Sussex, such charges shall become a lien upon the tax rolls as a delinquent tax against the lot owner's lot as provided in Section 66.0627, Wis. Stats.

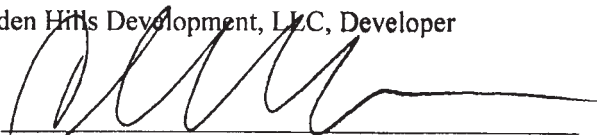
**37. DAY-TO-DAY MAINTENANCE OF DRAINAGE EASEMENT AREAS**

The day-to-day maintenance of any drainage easement area located on an individual lot shall be the responsibility of the owners of such lot. Day to day maintenance includes such items as cutting grass, raking leaves, removing fallen trees and branches, and removing other minor obstructions. This paragraph shall not limit the Village's authority of enforcement against the Association, as described in Section 36, above.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 9<sup>th</sup> day of June, 2017.

Hidden Hills Development, LLC, Developer


By:

  
Carl Tomich, Managing Member

ACKNOWLEDGMENT

STATE OF WISCONSIN)  
  )SS.  
WAUKESHA COUNTY )

Personally came before me this 9<sup>th</sup> day of June, 2017, the above-named Carl Tomich, to me known to be the person who executed the foregoing instrument and acknowledged the same.

  
Kari L. Stahl, Notary Public, Waukesha County, WI  
My commission expires February 21, 2020

Drafted by:  
Hidden Hills Development, LLC  
N8 W22520 – L, Johnson Drive  
Waukesha, WI 53186

# EXHIBIT A

## LEGAL DESCRIPTION HIDDEN HILLS SUBDIVISION

VILLAGE OF SUSSEX

VILLAGE OF SUSSEX

### TOTAL AREA

1,444,270 S.F.

33.1559

TAX KEY

#LSBTD199998

OVERLAND  
ROAD

MAPLE AVENUE

VILLAGE OF SUSSEX

VILLAGE OF SUSSEX

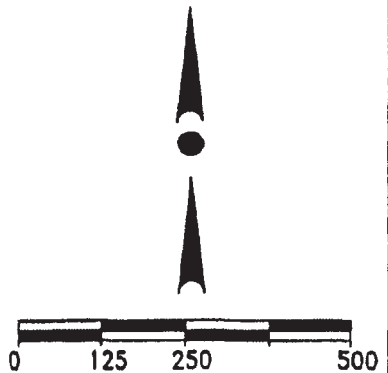
### LEGAL DESCRIPTION:

That part of the Northwest 1/4 of the Southwest 1/4 of Section 14, Town 8 North, Range 19 East, Town of Lisbon, County of Waukesha, State of Wisconsin, bounded and described as follows:

Commencing at the Northwest corner of the Southwest 1/4 of said Section 14; Thence North 89°00'14" East along the North line of said Southwest 1/4 436.00 feet to the place of beginning of lands hereinafter described;

Thence continuing North 89°00'14" East along said North line 892.85 feet to a point on the West line of "Certified Survey Map No. 10450"; Thence South 00°16'06" West along said West line 1314.02 feet to a point on the North line of "Pine Ridge Subdivision"; Thence South 88°44'42" West along said North line and its extension 1323.29 feet to a point on the West line of said Southwest 1/4; Thence North 00°01'47" East along said West line 1.86 feet to a point; Thence North 88°30'47" East 435.58 feet to a point; Thence North 00°01'47" East 100.02 feet to a point; Thence North 00°23'13" West 161.35 feet to a point; Thence North 00°01'47" East 58.80 feet to a point; Thence North 87°32'13" West 213.84 feet to a point; Thence North 86°38'13" West 237.00 feet to a point on the West line of said 1/4 Section; Thence North 00°01'47" East along said West line 590.95 feet to a point; Thence North 89°00'14" East 436.00 feet to a point; Thence North 00°01'47" East 300.00 feet to the point of beginning of this description

Said Parcel contains 1,444,270 Square Feet (or 33.1559 Acres) of land, more or less.



DATE: 02-20-2017