

The Declaration of Restrictive Covenants,  
Conditions & Building Restrictions for Lots 110-  
148 of Plat of the Cottages at Hidden Creek, Third  
Addition, Brown County, Wisconsin

Drafted by and return to:  
Allison Buckley  
Radue Homes  
2585 S Broadway  
Green Bay, WI 54304

WHEREAS, Daybreak Development LLP is owner and developer, hereinafter “Declarant,” of the Cottages of Hidden Creek, Third Addition, Village of Howard, Brown County, Wisconsin (legally described in attached Exhibit A and hereinafter the “Plat”); and

WHEREAS, the Declarant has incorporated under the laws of the State of Wisconsin, a non-stock corporation known as the Hidden Creek Neighborhood Association, Inc. (hereinafter “Association”); and

WHEREAS, Declarant wishes to declare the following Restrictive Covenants, Conditions, and Building Restrictions upon the Plat to insure the use of the Plat for attractive residential purposes only, to prevent nuisances, to prevent the impairment of the attractiveness of the Plat, and to maintain the desired tone of the community, and thereby insure each lot owner the full benefit and enjoyment of his or her home, with no greater restriction on the free and undisturbed use of the lot than is necessary to insure the same advantages to the other lot owners.

NOW THEREFORE, Declarant hereby imposes upon and subjects Lots 110-148 of the Plat of the Cottages of Hidden Creek, Third Addition, to the following conditions, restrictions, covenants, and reservations hereinafter set forth:

1. The following words are terms of art and given special meaning throughout this Declaration and are defined as follows:
  - a. “Association” shall mean the Hidden Creek Neighborhood Association, Inc. a Wisconsin Non-stock Corporation incorporated under the laws of the State of Wisconsin.
  - b. “Bylaws” shall mean the Bylaws of the Hidden Creek Neighborhood Association, Inc.
  - c. “Common Property” shall mean all real property and any improvements located thereon, and all personal property, from time to time intended to be devoted to the use and enjoyment of all Members of the Association and maintained by the Association. This may include but is not limited to designated outlots, exterior areas of land or interior spaces of a structures. Such areas shall be designated by the Plat, Bylaws, Rules and Regulations, or Condominium instrument and may include but is not limited to

clubhouses, recreational facilities, trails, and greenspace. In no event shall this term be intended to include a private dwelling or public rights of way.

- d. "Dwelling" or collectively "Dwellings" shall mean any residential structure constructed upon an individual lot.
  - e. "Lot" shall mean the individual lots enumerated in the Plat of the Cottages of Hidden Creek, Third Addition.
  - f. "Lot Owner" shall mean the individual(s) or entity holding right, title and interest in a Lot in the Plat.
  - g. "Outlot" shall mean any subdivided portion of land labeled as "outlot" in the Plat.
  - h. Plat shall mean the platting of The Cottages at Hidden Creek, Third Addition which represents all of Outlot 7 of the Plat of the Cottages of Hidden Creek, 1<sup>st</sup> Addition (Document Number 3026320, Brown County Records).
  - i. "Rules and Regulations" shall mean the Rules and Regulations of the Association that may be adopted and/or amended by the Association.
2. Land Use and Buildings: No Lot, excluding Outlots, whether alone or in combination with another Lot(s), shall be used for any purposes other than single family residential purposes in compliance with these covenants, excluding Lot 99 (previously known as Lot 31) which is common property intended for use as a clubhouse. No building erected elsewhere shall be moved onto any lot. All single-family homes shall have a full basement and shall be constructed on site.
3. With respect to Lots 110 through 148, the following minimum design and architectural standards shall apply:
- a. The exterior surface of all Dwellings shall be covered with material as chosen by Declarant to ensure quality and continuity throughout the Plat. Alternate materials are permitted only with the prior written approval of the Declarant in the Declarant's sole discretion so long as the Declarant owns Lots within the Plat or in lieu of the Declarant, approval shall be obtained from the Association.
  - b. All Dwellings shall utilize only white colored trim, all windows shall be repaired or replaced with windows similar in size, share, configuration, and operability as originally construction.
  - c. Rear yard decks appurtenant to the Dwellings, if any, may not utilize wood decking material, wood side rails, or wood handrails. Only synthetic wood, thermally modified wood, composite, stone, concrete, or brick may be utilized.
  - d. No satellite dishes shall be permitted on the front half of any Dwelling.
  - e. All roofing material must be architectural style shingles or standing seam metal roof.
  - f. All physically adjoining homes must have the same or complimentary exterior materials in color, material, and type. All exterior materials must be identical on each side of an adjoining home.
  - g. No accessory structures, including but not limited to kennels, dog houses, sheds, outbuildings, cages, coopers, sleeping quarters, child play structures, and fences of any kind shall be permitted other than those approved by the Association for the Common Property. No fences, except invisible dog fencing, may be located on any portion of a Lot. Privacy barriers of any kind shall be made of natural landscaping material only.
  - h. No pools are allowed on any Lot other than Lot 99, which was combined with Lot 31 of the Plat of Hidden Creek associated with the clubhouse.
  - i. Said Lots shall be members of and subject to the rules, regulations, and bylaws of the Hidden Creek Neighborhood Association.

4. **Developer Review:** All Lots within the Plat are subject to Developer Review. Declarant reserves the right of architectural and design review for homes proposed to be constructed in the subdivision. Declarant review shall include but not be limited to the covenants within this document as well as the overall design and placement of the proposed structure. The intent of this review is to encourage the same quality and standards throughout the development. Proposed plans shall be given to the Declarant prior to seeking a building permit from the local municipality. Any walkouts or exposed windows from lower level must have Declarant, surveyor, or engineer approval at the time of plan submission and be clearly indicated on the plans submitted for approval. The Declarant shall review and comment on the proposed plan within ten (10) business days of receipt of the plan. Failure to comment, by the Declarant, within ten (10) business days shall constitute approval. Declarant approval of plans shall in no way constitute approval of any condition which would be contrary to any village, county, or state requirements. Developer designates Radue Homes, Inc as the exclusive builder of each lot within this Plat unless a written waiver is signed by the Developer.
5. **Removal of Dirt:** No fill or topsoil shall be removed from the subdivision without written consent from the Declarant. So long as the Declarant owns any lot, Declarant reserves the right to direct the disposition of any dirt (soil) that is to be moved from the lot.
6. **Grading:** No Lot Owner shall block, dam, or otherwise obstruct the flow of surface water drainage so as to cause such water to back-up onto the lot of another Lot Owner or so as to restrict the use or enjoyment of any other lot by any other Lot Owner. Each Lot Owner is responsible for maintaining established grades. Lawn and landscaping shall be in strict compliance with any approved drainage plan. These grading restrictions shall also apply to the Association as they may apply to any outlot or Common Property.
7. **Temporary Structures:** No structure of a temporary character, trailer, basement, tent, shack, garage, or other outbuilding shall be used on any parcel at any time as a residence either temporarily, or permanently. No structure other than a fully completed dwelling shall be occupied for residential purposes.
8. **Completion Date:** All structures must be completed within twelve months and shall have the exterior completed within 12 months after commencement of building construction. Initial landscaping, lawn, driveways, and sidewalks must be completed within 10 months after receipt of a temporary or permanent certificate of occupancy from the permitting agency. Driveways must be concrete.
9. **Access:** During construction, no access to the building site shall be allowed over adjacent lots. If any damage is done to the adjacent lots, the owner of the home under construction shall restore or pay the Declarant for the restoration of said property to its pre-damaged condition.
10. **Parking:** Non-operable vehicles, boats, trailers, RV's, campers, all-terrain vehicles, buses, or other such commercial or recreational vehicles may not be parked or stored outside for more than three (3) consecutive days and not more than twelve (12) total days during any twelve-month period. Storage, temporary or permanent of these vehicles must be kept in an enclosed garage. Vacant lots or Common Property may not be used for storage of any kind or parking of the above-listed vehicles.
11. **Landscape and Exterior Maintenance:**

- a. All Lots' lawns and landscaping shall be maintained in an attractive manner in accordance with the original landscape plan. Landscaping shall be completed within ten (10) months after issuance of an occupancy permit. All Lots' lawns must be kept clipped. No "wildlife" or "prairie" lawns are permitted in front of any Dwelling. Variations in plantings, trees or other landscaping features that deviate from the original Lot's landscaping plan shall be approved by the Homeowner's Association and at the Lot Owner's expense.
  - b. The cutting and storage of firewood shall be contained to an area concealed from the view of neighbors and be maintained in an orderly fashion.
  - c. All garbage and recycling containers shall be kept in the garage except after 4:00 pm on the day prior to the day of pick up and no later than midnight on the day of pick up.
  - d. It shall be the affirmative duty of each Lot Owner at all times to keep and maintain the improvements and landscaping upon such Lot Owner's Lot in good and presentable condition and repair. Maintenance of each Lot and all parts of any structure thereon, unless specifically identified as being the responsibility of the Association, shall be the responsibility of the Lot Owner of such Lot.
  - e. In the event the landscaping is not completed or maintained by the Lot Owner, the Declarant and/or Association may do so and assess the Lot benefiting from such improvements.
12. The Association shall have the right to provide exterior maintenance upon, or repair or replacement of, any Lot and improvements or landscaping thereon in the event of default by any Lot Owner in that Lot Owner's duties hereby imposed, subject, however, to the following provisions.
- a. Prior to performing any maintenance, repair or replacement on a Lot Owner's property, the Board of Directors of the Association, or a committee appointed by the Board of Directors, shall determine that the same is in need of maintenance, repair, or replacement, and is detracting from the overall appearance of the Property.
  - b. Except in the event of an emergency, prior to commencement of any work, the Board of Directors must furnish at least fifteen (15) days' prior written notice to the Lot Owner at the last address listed in the Association's records for said Lot Owner notifying the Lot Owner that unless certain specified replacements, repairs or maintenance are commenced within said fifteen (15) day period and thereafter diligently pursued to completion, the Association may procure said replacements, repairs or maintenance, and charge same to the Lot Owner.
  - c. Upon the failure of the Lot Owner to act within said period of time and to thereafter diligently pursue such replacements, repairs or maintenance, the Association or its designee shall have the right to enter in or upon any Lot, in or upon any Dwelling as necessary during reasonable hours on any day except Sundays and holidays, except that in an emergency situation, as determined by the Board of Directors, entry may be made on any day and at any hour. The Association may hire a contractor to act as its designee to make such necessary replacements, repairs, or maintenance as is specified in the written notice. The Association shall have the right to complete repairs and maintenance including but not limited to exterior paint, repair, replace

and care for roofs, gutters, downspouts and exterior building surfaces, clean or resurface paved access ways and parking areas, trim and care for trees, shrubs, grass, walks, swales, berms and other landscaping and drainage improvements, as well as to provide general exterior cleanup, and removal of debris which in the opinion of the Association detracts from the overall beauty and setting of the Plat. None of the Declarant, the Association, or their agents or employees, shall be liable to the Lot Owner for any trespass or damages or injury to the property or person of the Lot Owner or the occupants or invitees of the affected Lot or improvements thereon unless caused by gross negligence or intentional wrongdoing.

- d. The cost of the replacement, repair or maintenance referred to above shall be assessed as a Special Assessment against the Lot Owner of the Lot or improvements upon which such maintenance is done. Said assessment shall be secured by a lien upon the affected Lot and improvements and shall also constitute a personal obligation of the Lot Owner. The assessment shall be collectible along with interest at the highest rate allowed by law from date of expenditure to date of payment by the Lot Owner, and costs of collection and attorneys' fees, in the same manner as any other delinquent assessments.
- e. For purpose of performing the replacements, repairs or maintenance authorized above, the Association, through its duly authorized agents, contractors or employees, shall have the right to enter upon any Lot and the exterior of any improvements thereon during reasonable hours on any day except Sundays and holidays, except that in an emergency situation as determined by the Board of Directors, entry may be made on any day and at any hour.
- f. All mailboxes, including those that are clustered between lot lines or on Outlots, shall be maintained, repaired, and replaced by the Association on behalf of all Lot Owners.
- g. Party Walls – Use, Repair and Restoration: Each wall built as part of the original construction of the resident improvements to the Lots and placed on the dividing line between two attached, but separately owned Lots shall constitute a Party Wall. The general rules of law regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.
- h. The Lot Owners of the two (2) adjacent Lots that share a Party Wall shall both have the equal right to use such Party Wall in a reasonable manner, provided that such use by one Lot Owner does not interfere with the use and enjoyment of the other Lot Owner. The Lot Owners sharing a Party Wall further grant mutual easements for access as needed for the mutual wall, siding, roofing system, utilities, sprinkler systems, and any other shared or connecting systems and services necessary for the construction, use and enjoyment of their respective Dwellings.
- i. In the event of fire, natural disaster, long term wear and tear, or other cause of damage and destruction to a Party Wall, it shall be the obligation of the Lot Owners that share the Party Wall to rebuild and repair the Party Wall.
- j. Each Lot Owners is thereafter responsible for reconstruction, repair, and maintenance of other portions of their respective dwellings except as required in this Section. Lots

Owners shall reconstruct the property to the same footprint as originally constructed. Replacement exterior materials shall be similar in kind and quality as prior to the damage. Any alternations to the footprint, height, or exterior design and materials for the Dwelling under restoration, repair or remodeling shall be approved by the immediately Lot Owner sharing the Party Wall, the Association, and the Declarant.

- k. Each Lot Owner shall permit access to the Lot Owner sharing a Party Wall or its contractor lot as needed for repair, restoration, and maintenance, including but not limited to interior access for the Party Wall, roof system and utilities. Access shall be made available under the terms and conditions set forth in this Section of this Declaration.
  - l. **Roofs & Siding.** To ensure and enhance the value of the Lots and the improvements constructed on the Lots, to preserve the distinctive style and decor of the Property, and to protect the health, safety and welfare of the Lot Owners and occupants of the Dwellings, roofs are hereby made subject to the following special conditions, declarations, covenants, and restrictions in addition to those heretofore and hereinafter set forth. In the event that any roof or siding is damaged or destroyed due to deterioration from ordinary wear and tear and lapse of time, the Lot Owners whose residential improvements share a common roof may, in their collective discretion, replace the roof or any part thereof, provided that the appearance of the roofing and/or siding remains reasonably uniform. Neither Lot Owner, acting alone, may replace the roof or any part thereof, without the consent of the other Lot Owner that shares the roof. Where a contiguous wall of siding is shared by both Lot Owners, neither owner may replace any part thereof without the consent of the other Lot Owner that shares that wall. The Association may, in accordance with this Section, require that the Lot Owners with a shared roof or siding wall to replace the roof, siding or any parts thereof. The cost to repair or replace all or any part of a shared roof or shared wall of siding, whether due to normal wear and tear and the lapse of time, or otherwise, shall be the obligation of the Lot Owners who share such roof. Notwithstanding the foregoing, if such damage or destruction is caused by the intentional or negligent act or omission of a Lot Owner (or such Lot Owner's agents, guests, or members of their family), such Lot Owner shall be responsible for all costs to repair or replace such damage or destruction.
13. Declarant reserves the right to maintain construction or landscaping on any Lot or Common Property that has not been maintained according to this Declaration and/or the Association's Rules and Regulations. Declarant may assess the individual Lot Owners or the Association for expenses related to their proportional share.
  14. With respect to Lot 99, hereinafter Common Property:
    - a. The Declarant may retain the legal title to all or any portion or portions of the Common Property until such time as it has completed improvements thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same. Upon conveyance of the Common Property to the Association, the Association shall be responsible for the exclusive management and control of the Common Property and all improvements thereon.
    - b. The Declarant hereby reserves to itself, and to its successors and assigns, such licenses, rights, privileges and easements in, thru, over, upon and under all Common

Property, including, but not limited to, (1) the right to use the said properties for rights-of-way and easements to erect, install, maintain, inspect and use electric and telephone poles, wires, cables, conduits, sewers, water mains, pipes, telephone, and electrical equipment, gas, cable television, drainage facilities, ditches or lines, walls, berms, fences, landscaping or other utilities or services and for any other materials or services necessary or convenient for the completion, marketing, and use and enjoyment of the Plat; (2) the right to cut any trees, bushes or shrubbery, make any grading of the soil, or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, convenience, safety and appearance; (3) the right to locate thereon wells, pumping stations and irrigation systems and lines; (4) the right and easement of ingress and egress for purposes of development, construction and marketing; and (5) such other rights as may be reasonably necessary to complete in an orderly and economic manner the development of the Plat; provided, however, that said reservation and right shall not be considered an obligation of the Declarant or its successors and assigns to provide or maintain any such utility, development, or service. The Declarant also reserves to itself and its successor and assigns the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers and drainage and other utility lines which may from time to time be in or along the streets and roads, or within the Common Property, easements, or to grant such rights to others. The easements and rights-of-way herein reserved shall continue in existence in favor of the Declarant and its successors and assigns after conveyance of Common Property to the Association. This Section may not be amended without the written consent of the Declarant.

- c. The Association shall maintain and keep in good repair the Common Property and all improvements thereon. Said maintenance obligation shall be deemed to include but not be limited to maintenance, repair and replacement, subject to the insurance and casualty loss provisions contained herein, of all utility lines, pipes, wires, glass, conduits, structures, systems, trees, fences, shrubs, grass, streets, parking spaces, walks, and other improvements situated upon the said Common Property. The maintenance of each Lot and all parts of any structure thereon, unless specifically identified as being the responsibility of the Association shall be the responsibility of the Lot Owner of such Lot.
15. Easements. The easements, licenses, rights and privileges established, created and granted by this Declaration shall be for the benefit of the Association, the Declarant, and the Lot Owners, all as more specifically set forth elsewhere in this Declaration, but the same are not intended nor shall they be construed as creating any rights in or for the benefit of the general public. In the event that any portion of any roadway, walkway, parking area, driveway, water lines, sewer lines, utility lines, sprinkler system, building or any other structure or improvement as originally constructed encroaches on any Lot or Common Property, it shall be deemed that the Lot Owner of such Lot or the Association, as the case may be, has granted a perpetual easement to the Lot Owner of the adjoining Lot, or the Association, as the case may be, for the continuing maintenance and use of such encroaching improvement or structure. The foregoing shall also apply to any replacements of any such improvements or structures if the same are constructed in substantial conformity with the original structure or improvement.

16. Animals. No animals of any kind shall be raised, bred, or kept upon any Lot except for dogs and/or cats which shall be limited in number to a total of two (2) in any single dwelling. In no case shall any dog and/or cat be raised, bred, or kept for any commercial purpose. No animal houses, kennels, runs, cages, coops, sleeping quarters, or any other kind of outside housing for animals, shall be permitted on the Property. Owners must pick up after their pets at all times whether on their own lot or another lot or outlot. Owners are responsible to control excessive barking of all pets.
17. Rules and Regulations: Lot owners are members of and subject to the Association, rules and regulations promulgated by the Board of Directors of the Association as to the use and enjoyment of the Property shall be observed by the Lot Owners and all occupants thereof. Such rules and regulations may involve such matters as air conditioning units, signs, mailboxes, noisy mufflers or other nuisances, garbage and trash disposal, clotheslines, parking, vehicle traffic and the state of repair of vehicles, tree removal, gutters, pets, game and play structures, television antennas, driveways, walkways, sight distance at intersections, garages, and fences. These matters are set out by way of illustration only and shall not be construed to limit the authority of the Board of Directors to promulgate and enforce rules and regulations. Such rules and regulations may augment or clarify the terms of this Declaration, or any provision, covenant or restriction herein contained, but should be read in concert with this Declaration. To the extent the Rules and Regulations contradict this Declaration, this Declaration shall be controlling authority. Copies of such rules and regulations shall be made available to each Lot Owner prior to the time the same become effective.
18. Neighborhood Association Powers and Duties: The Association shall be charged with the duties and vested with the powers prescribed by law and set forth in the Articles of Incorporation, the Bylaws, and this Declaration. Neither the Articles of Incorporation nor the Bylaws shall, for any reason, be amended or otherwise changed or interpreted to be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail. The officers and directors of the Association shall be required to be Members (defined below) of the Association. The Directors of the Association, and such Officers as the Directors may elect or appoint, shall conduct the affairs of the Association in accordance with this Declaration, the Articles of Incorporation, and the Bylaws. The Association shall promulgate rules and regulations for the use and enjoyment of Lots. Such rules may augment or clarify the terms of this Declaration, or any provision, covenant or restriction contained herein. Copies of such rules and regulations shall be made available to each Lot Owner prior to their becoming effective.
  - a. Each Lot Owner shall be a member (individually a "Member" and collectively the "Members") of the Association. The Association membership of each such Lot Owner shall be appurtenant to the Lot giving rise to such membership and shall not be transferred except upon the transfer of title to said Lot and then only to the transferee of title thereto. Any prohibited separate transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership of the Association appurtenant thereto to the new Lot Owner thereof.
  - b. The Association shall have two (2) classes of Members:



1. Class "A" Members shall be Lot Owners subject to the Association, but specifically excluding Daybreak Development, LLP (the "Declarant"). Class "A" Members shall be entitled on all issues to one (1) vote for each Lot in which they hold the interest required for membership.

2. Class "B" Members shall be the Declarant and any successor of the Declarant that the Declarant explicitly designates in writing, as a Class "B" Member. The Class "B" Members shall be entitled to twenty (20) votes for each Lot owned by a Class "B" Member.

- c. Each vote in the Association must be cast as a single vote, and fractional votes shall not be allowed. If joint or multiple Lot Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Lot Owner or Lot Owners cast a vote on behalf of a particular Lot, it shall thereafter be conclusively presumed for all purposes that he/she was, or they were, acting with the authority and consent of all other Lot Owners thereof. In the event more than the appropriate number of votes are cast for a particular Lot, none of said votes shall be counted and all of said votes shall be deemed void.
- d. The Association shall have all the powers of a non-profit corporation organized under the laws of the State of Wisconsin, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles of Incorporation, the Bylaws, or this Declaration. The Association shall have the power to do any and all lawful things which may be authorized, assigned, required or permitted to be done by this Declaration, the Articles of Incorporation and the Bylaws, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the duties or powers of the Association for the benefit of the Lot Owners and for the maintenance, administration, and improvement of the Common Property (defined below).
- e. Levying and Payment of Assessments: Based on the duly adopted annual operating budget and as set forth in the Bylaws, the Board of Directors shall levy general assessments (the "General Assessments") against the Members with an equal share of the General Assessment being levied against each Lot. The Secretary shall annually mail or deliver a copy of the annual operating budget and a statement of assessments for the next twelve (12) months to each Member. General Assessments shall be payable to the Association in such manner as may be determined by the Board of Directors. Such installments shall be mailed or delivered to the principal office of the Association and shall be deemed paid on the date of mailing or on the date of delivery, as the case may be. Nothing in this section precludes the Association from levying special assessments in accordance with its Bylaws.
- f. Insurance and Casualty Losses: The Association's Board of Directors shall have the authority to obtain insurance for insurable improvements on the Common Property owned by it, against loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief, and to obtain public liability policies

covering the Association, the Declarant and/or its designee, and its Members, for damage or injury caused by the negligence of the Association, Declarant and/or its designee, or any of its Members or agents, and, if reasonably obtainable, directors' and officers' liability insurance, and to obtain any and all other types of insurance coverage with respect to such risks or persons as shall be deemed necessary or appropriate by the Board of Directors. Any insurance obtained shall include such coverage, contain such deductible provisions and be within such limits as shall be determined by the Board of Directors. Premiums for insurance shall be a Common Expense if for the benefit of the Association, its officers or directors, the entire membership as a group, or related to the Common Property.

19. Covenant for Payment of Assessments.

- a. Each Lot Owner subject to the Association by acceptance of a deed to such Lot, and whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to, and hereby does covenant and agree to pay to the Association: (1) annual General Assessments or charges or (2) any special assessments for Common Property or Lots. Said assessments shall be fixed, established, and assessed to the Lot Owners as set forth in the Bylaws. The assessments together with interest thereon, late charges, lien charges and costs of collection thereof, including court costs and reasonable attorneys' fees (including fees and costs upon appeal), shall be a charge and a continuing lien upon the Lot against which each such assessment is made from the date on which each such assessment is due. Each such assessment, together with interest, late charges, lien charges, costs, and attorneys' fees, as herein provided, shall also be the personal obligation of the person who was the Lot Owner of such Lot at the time when the assessment fell due. The Association may take any means as set forth in the Bylaws for collection and enforcement of any unpaid assessments.
  - b. Except as set forth in this subsection, no land or improvements in the Plat shall be exempt from assessments, charges, or liens. No Lot Owner may avoid the obligation for the payment of assessments by virtue of non-use or abandonment of such Lot Owner's Lot or the Common Property. Notwithstanding the foregoing, the following property shall be exempt from the assessments, charges and liens created herein:
    1. All Common Property, including but not limited to all existing outlots.
    2. Any Lot owned by the Declarant for which an original occupancy permit has not yet been issued.
20. Enforcement: Enforcement of these covenants and restrictions shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant or restriction either to restrain a violation or to recover damages. Legal filing of violation of these covenants shall be permitted by any resident of the Plat, the Association, or by the Declarant if still holding a share of the development, or in the case of violating the adopted stormwater management plan and overall grading plan, then the local municipality shall have the right to file. In the event of litigation to enforce these conditions, covenants, and restrictions, the non-performing party or the party violating any of the conditions, covenants, and restriction shall

reimburse the enforcing party for all out-of-pocket expenses, including actual attorney's fees and court costs, incurred in enforcing these conditions, covenants, and restrictions.

21. Covenants Run with the Land: These covenants and restrictions set forth in this Declaration shall run with and bind the owners and successors in interest of any Lot or interest in the Plat and shall inure to the benefit of and be enforceable by or against any owner of land within the Plat, their respective legal representatives, heirs, successors, and assigns from the date of this recording. All future conveyances or any Lot or Lots shall be subject to the Declarations set forth herein. Acceptance of a deed by any purchase is considered an agreement to observe and abide by this Declaration for the protection of all property owners within the Plat.
22. Amendment. The provisions of this Declaration shall remain in full force and effect, unless an amendment is made to this Declaration as set forth herein. Except for Sections pertaining to Party Walls, Roofs & Siding, any provision of this Declaration may be removed, modified, annulled, waived, changed, or amended at any time and in any manner by a written declaration setting forth such amendment, which has been executed by the owners of at least 75% of the Lots in the Plat and Declarant so long as Declarant owns any lots within the Plat. Any amendment shall be in such form as to entitle it to be recorded with the Register of Deeds Office for Brown County, Wisconsin. Declarant approval for amendments shall not be required if the only lot Declarant owns is the primary residence of Declarant. All covenants set forth within this document shall apply exclusively to this Plat and in no way shall a variance or special exception to these covenants be pursued through governmental channels associated with local governing body(s). All rights and responsibilities of the Declarant shall expire upon the sooner of 1) the sale of all Lots in the Plat or 2) fifteen (15) years from the date of this Declaration. If the Declarant or heirs of the Declarant own lots within the development for personal residential purposes, then their roles and responsibilities within the development shall be the same as that of any other Lot Owner within the development.
23. All decisions of the Declarant shall be enforceable against any Lot Owner if made in good faith exercise of the judgment or discretion of its members so long as such decision is not clearly in conflict with the express provisions of this Declaration. Any Lot Owner or other person seeking to avoid, set aside or challenge any such decision of the Declarant shall have the burden of proof to establish that such standards were not met at the time the decision was made.
24. Variations in any of these covenants may be permitted by the Declarant where Declarant is satisfied that such variations will be pleasing and in keeping with the character of surrounding properties and will not be a detriment to the Plat as a whole.
25. Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
26. Assignment. The Declarant may assign its rights as the Declarant under this Declaration by recording written documentation of such assignment with the office of the Brown County Register of Deeds in Green Bay, Wisconsin. Upon recording of such an assignment, the assignee shall become, and shall be deemed to be, the Declarant for all purposes hereunder.

IN WITNESS WHEREOF, the Declarant has executed this Declaration this \_\_\_\_ day of \_\_\_\_\_,

2024.

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Ryan P. Radue, President  
Daybreak Development, LLP

STATE OF WISCONSIN  
BROWN COUNTY

Ryan P. Radue, President of Daybreak Development, LLP personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2024 and is known to me to be the person who executed the foregoing instrument.

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Allison C. Buckley  
Notary Public  
Brown County, Wisconsin  
My commission is permanent.

Exhibit A to follow – Plat of The Cottages of Hidden Creek, Second Addition