

DEED RESTRICTION

This Deed Restriction (the "Restriction") is made and entered into on this _____ day of _____, 2017, by and among [insert name of property owner] ("Owner"), Town of Burke, Dane County, Wisconsin, a Wisconsin body corporate and politic (the "Town") and the City of Madison, a Wisconsin municipal corporation (the "City").

RECITALS

- A. The Town, the City, the Village of Deforest, and the City of Sun Prairie, entered into a cooperative plan entitled "Final Town of Burke, Village of Deforest, City of Sun Prairie, and City of Madison Cooperative Plan, dated January 5, 2007" (the "Plan").
- B. Section 11.B.(1) of the Plan states in relevant part: "Any development in the Town shall, in addition to Town requirements, be subject to approval by...Madison...in accordance with...City of [Madison] Development Requirements..."
- C. Section 11.B.(3) of the Plan also states in relevant part: "The division of a five (5) acre or larger parcel (including parcels that are less than 5 acres because of a property acquisition by...Madison...) existing as of March 1, 2006 into only two parcels for residential purposes, shall not be considered development under this Plan, and the owners may, subject to applicable Town and County regulations, divide and rezone the parcel to a single-family residential district and construct a single-family residence on each of the two Restricted Parcels without the cooperation or approval of...Madison... A "parcel" is defined as the contiguous lands within the control of a single owner."
- D. Owner owns the real estate described in Exhibit A, attached hereto and incorporated herein (the "Restricted Property").
- E. Owner desires to divide the Restricted Property into only two parcels for residential purposes.

THIS SPACE RESERVED FOR RECORDING DATA

RETURN TO:

Town Clerk/Administrator/Treasurer
Town of Burke
5365 Reiner Road
Madison, WI 53718

P.I.N.

- F. Owner desires to enter into this Deed Restriction to ensure that the division of the Restricted Property is not considered “development” under the Plan.
- G. Based on this Restriction, the City and the Town acknowledge that the division of the Restricted Property is not considered “development” under the Plan.

NOW, THEREFORE, in consideration of the mutual benefits passing to and from the parties, Owner, the Town, and the City agree as follows:

1. **Recitals.** The recitals stated above are incorporated in this Section 1 of the Restriction as if fully set forth in this Section 1.

2. **Only Residential Uses Allowed.** The Restricted Property may only be used for residential purposes, and all other uses are prohibited. The Restricted Property may be divided into two parcels and a single-family residence may be constructed on each of the two new parcels without the cooperation or approval of the City. For the purposes of this Restriction, residential purposes shall include all uses that would be a permitted use within Dane County’s R-1, R-2, R-3, and RH zoning districts. Any new accessory building(s) on the Restricted Property must meet the requirements of an accessory building in these zoning districts.

3. **Enforcement.** This Restriction shall be enforceable at law or in equity against any party who has, or acquires, an interest in the Restricted Property by either of the following parties:

- A. The Town provided the Restricted Property is located in the Town at the time the enforcement action is commenced; and
- B. The City.

4. **Amendment.** This Restriction may only be amended with the written approval of Owner, the City, and the Town (as long as the Restricted Property is located in the Town). Such amendment would only be effective upon the recording of it with the Dane County Register of Deeds.

5. **Term.** This Restriction shall run with the Restricted Property and shall be binding upon Owner of the Restricted Property and Owner's heirs, successors in interest, personal representatives and assigns, and those persons occupying or using the Restricted Property under or through any of the foregoing. This Restriction shall be recorded by Owner and may be re-recorded by Owner, the Town or the City.

6. **Termination.** This Restriction may be terminated only in the following manner:

- A. Upon written approval of the current owner of the Restricted Property, the City, and the Town (as long as the Restricted Property is located in the Town), with such approval being effective only upon the recording of the written approval with the Dane County Register of Deeds; or
- B. If the Restricted Property is within the Town, upon the rezoning of the Restricted Property to an R-1, R-2 R-3 or RH Dane County Zoning District.
- C. If the Restricted Property is attached or annexed to the City, this Restriction shall automatically terminate.

7. **Severability.** The terms and conditions of this Restriction are severable. The invalidation of any provisions hereof by judgment or court order shall have no effect on any other provision hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Restriction as of the date first set forth above.

OWNER:

By: _____

Print Name: _____

STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me this _____ day of _____, 2017, the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Notary Public, State of Wisconsin
My Commission expires: _____

SAMPLE

BURKE:
TOWN OF BURKE

By _____
Name: _____
Title: _____

STATE OF WISCONSIN

COUNTY OF DANE

Personally came before me this _____ day of _____, 2017, the above named _____, to me known to be the person who executed the foregoing instrument and acknowledged the same with authority from the Town of Burke.

Notary Public, State of Wisconsin
My Commission expires: _____

SAMPLE

CITY:
CITY OF MADISON

By _____
Name: _____
Title: _____

STATE OF WISCONSIN

COUNTY OF DANE

The foregoing instrument was acknowledged this _____ day of _____, 2017, by the above-named _____, to me known to be the _____ for the City of Madison, who executed the foregoing instrument and acknowledged the same with authority from the City of Madison.

Notary Public, State of Wisconsin
My Commission expires: _____

Execution of this Agreement by the City is authorized by Resolution Enactment No. RES 17-_____, ID No. _____, adopted by the Common Council of the City of Madison on _____, 2017.

Attachments:
Exhibit A – Description of Restricted Property

This instrument was drafted by:

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EXHIBIT A
DESCRIPTION OF RESTRICTED PROPERTY

SAMPLE