

DECLARATION
OF COVENANTS
AND
RESTRICTIONS
PLAT NO. 7
PENFELD
CROSSING
SUBDIVISION

COPY

RECEIVED
WINNEBAGO COUNTY RECORDER

AUG 25 2004

TIME _____
BY _____

THIS DECLARATION is made this 13th day of August, 2004 by Linden II, L.L.C. Where no distinction is required by the context, Linden II L.L.C. will be referred to in this Declaration as the "Declarant".

Declarant is the owner of fee simple title in and to that certain real property situated in Winnebago County, Illinois, known as Plat No. 7 Penfield Crossing Subdivision, as shown on the plat (the "Plat") of subdivision recorded as Plat of Subdivision in the office of the Recorder of Deeds of Winnebago County, Illinois, on AUGUST 13, 2004 in Book 44 of Plats on Page 195A as Document No. 04-54235 and which is referred to in this Declaration as the "Subdivision".

The Subdivision consists of residential lots numbering 199 through 245 as shown on the Plat. It is the intention and desire of Declarant that the Subdivision be developed into a first-class, protected community of homes, and it is the present purpose of Declarant in executing this Declaration to subject the Subdivision to the restrictions, conditions and covenants set forth below, each and all of which are for the benefit of each current and subsequent owner of any parcel in the Subdivision.

NOW, THEREFORE, in consideration of the recitals set forth above, Declarant declares and agrees that:

1. Restrictions. Until August 13, 2024, each lot in the Subdivision shall be held, sold and conveyed subject to the following restrictions and conditions, which shall be construed as covenants running with the land, binding on all parties having any right, title or interest in the Subdivision or any part of the Subdivision and on their heirs, successors and assigns (all of whom are collectively referred to as "Lot Owners" and individually referred to as "Lot Owner") and shall inure to the benefit of each Lot Owner. After August 13, 2024, the restrictions and conditions shall continue to run with and bind the land after that date until and unless the fee owner or owners of at least two-thirds (2/3) in number of the lots in the Subdivision agree in writing to modify or terminate any one, or all of the restrictions and conditions. The modification or termination may be made at any time after August 13, 2024, by a written agreement stating the manner and extent of any modification or the date of termination, signed and acknowledged by the fee owner or owners of at least two-thirds (2/3) in number of the lots of the Subdivision and filed in the Office of the Recorder of Deeds.

of Winnebago County, Illinois. The Subdivision shall be subject to the following covenants, restrictions and conditions:

1.1. No building shall be erected, maintained or used on any lot for manufacturing, commercial, industrial or business purposes and no noxious or offensive activity shall be carried upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance;

1.2. No building shall be erected or maintained on any lot unless it is a single-family dwelling house with a 2 or 3 car attached garage designed and equipped for occupancy only as a private residence for a single family. No more than one single-family dwelling shall be maintained on any one lot at the same time. No outbuildings or detached garages may be erected or maintained on any lot, except lot 239. No new outbuildings or detached garages may be erected or maintained on Lot 239. A blacktop, concrete or other mat surface driveway shall be installed and maintained in accordance with the applicable standards. The restrictions set forth in this paragraph shall not apply to any temporary facility used by a contractor during the course of construction which temporary facility is removed at the completion of construction;

1.3. No above ground swimming pools may be constructed or maintained on any lot;

1.4. Each Lot Owner shall comply with all applicable requirements of the governmental bodies having jurisdiction over the property;

1.5. No visible tank for the storage of oil, gas, or any other material shall be erected or maintained on any lot;

1.6. No stables, kennels, or other quarters shall be erected, maintained or used on any lot for stabling or accommodating any horses, dogs, cats, cattle, swine, goats, sheep, bees, fowl, or any other animals;

1.7. Each single-family dwelling construction on Lots 199 through 245 in the Subdivision shall comply with the following minimum area requirements (exclusive of the area of any open porches, garage or basement): (1) Ranch or exposed ranch, 1,650 square feet on the main floor; (2) Tri-level, 1,750 square feet total; (3) Two-story, 2,200 square feet total. With respect to tri-levels, unfinished family rooms shall be included for purposes of determining square footage;

1.8. With the exception of houses constructed by Three Hammer Construction, Inc., no dwelling house shall be erected or placed on any lot until and unless the plans and specifications for the same have been first submitted to and approved in writing by the Declarant before the construction building permit is issued. Declarant, in its sole discretion, shall determine whether or not the nature, shape, color, height, exterior elevations and building materials are appropriate and acceptable for the Subdivision;

1.9. No fence of any type shall be erected on any lot without approval in writing by the Declarant, in its sole and absolute discretion, prior to construction. The fence must comply with all applicable governmental codes and may only be erected in the rear yard;

1.10. All plans and specifications for any improvements must be submitted in writing by the Lot Owner and approved by Declarant before commencement of any construction. If the Declarant fails to approve or reject any plans or specifications within thirty (30) days

after its submission, the plans and specifications in question shall be deemed not to have been approved;

1.11. No advertising sign or billboard, other than a single temporary "For Sale" or "For Rent" advertising sign of not greater than three (3) square feet in size shall be erected or maintained on any lot. A sign displaying the name of the general contractor and/or architect of the house may be erected during construction of said home provided that the sign does not exceed eight (8) square feet in area and is removed immediately after the completion of construction;

1.12. No lot may be re-subdivided.

2. **Covenants Run With the Land.** Each grantee of Declarant, by the acceptance of a deed conveyance, accepts the same subject to all the restrictions, conditions, covenants and reservations set forth in this Declaration, and to the jurisdiction, rights and powers of Declarant created or reserved by this Declaration. All of the impositions and obligations imposed under this Declaration shall run with the land and bind every Lot Owner of any interest in each lot or part of any lot in the Subdivision and inure to the benefit of every owner in like manner. Each Lot Owner in the Subdivision and the Declarant shall be entitled to enforce any provision of this Declaration by proceedings at law or in equity against any person or persons violating or attempting to violate any of the provisions either to restrain violations, to remove such violations, or to recover damages.

3. **Waivers.** No restrictions imposed under this Declaration shall be abrogated or waived by any failure to enforce any of the provisions, no matter how many violations or breaches may occur.

4. **Partial Invalidity.** The invalidity of any restriction or of any provision of this Declaration, or of any part of any restriction or provision, shall not impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration.

5. **Assignment.** The rights, privileges and power retained by Declarant shall be assignable to, and shall inure to the benefit of, its successors and assigns.

