

**CONSERVATION EASEMENT**

**HOLDER:**                   **TOWN OF BELOIT**, a municipal corporation  
2871 S. Afton Rd.  
Beloit, WI 53511  
(Hereinafter called the "Holder")

**THE PROPERTY:** A part of the Heron Bay Subdivision located in the Town of Beloit, Rock County, Wisconsin described as follows: That property located in the Heron Bay Subdivision along the easterly portion of said Subdivision fronting on the Rock River from the northerly property line of the Subdivision (excluding what is now know as the Groves property) to the southerly boundary line of said Subdivision and extending from the ordinary high water line of the Rock River for a distance of three hundred (300) feet west from said water line.

**DATE OF THIS  
AGREEMENT  
FOR REFERENCE  
PURPOSES:**           \_\_\_\_\_ , 2003

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**WHEREAS**, the Town of Beloit is the fee simple owner of the property described above which is to be the subject of and subject to this Conservation Easement, and,

**WHEREAS**, the property possesses natural, scenic, biological, conservation and ecological values, and,

**WHEREAS**, both the common law and s.700.40 Wis. Stats., Uniform Conservation Easement Act, provide for the creation of such Conservation Easement, and,

**WHEREAS**, the Town of Beloit has determined to create such Conservation Easement to retain the natural, scenic, biological and ecological values of the property, and,

**WHEREAS**, the Town of Beloit intends to sell the lots in the Heron Bay Subdivision and to provide for this Conservation Easement on the lots affected as well as to provide for Covenants and Restrictions with regard to the entire Subdivision, and,

**WHEREAS**, the Town of Beloit, in conveying lots affected by this Conservation Easement intends to have the owners of said lots be subject to this perpetual Conservation Easement under the terms and conditions recited herein,

**NOW, THEREFORE**, there is hereby imposed a perpetual Conservation Easement upon the property described herein as follows:

1. **PURPOSE:** The Holder is the fee simple title owner of the property described herein and is committed to preserving the conservation values of the property. The purpose of this Conservation Easement is to insure that the property will be perpetually preserved in a predominately natural, scenic and forested condition. This area is currently denominated as a conservation area in the Town of Beloit's Master Plan and on its zoning map. Any use of the property which may impair or interfere with the conservation and environmental values set forth herein, unless expressly permitted by or in this Easement is expressly prohibited. The Holder of the property, its successors and assigns, agree to confine the use of the property to activities consistent with the purposes of this Easement and the conservation of the environmental value of this property.

The property which is the subject of this Easement has the following environmental and conservation values: potential habitat for rare, threatened or endangered species of woodlands or plants; natural areas which may represent examples of oak savanna remnants and other woodlands; a natural area which contributes to the ecological viability of the environment surrounding the property; a scenic landscape having a natural and environmental character which

would be impaired by significant modification of the property. A listing of the rare, threatened or endangered species of woodlands or plants as well as other flora and fauna which should necessarily be preserved on this property is attached hereto and incorporated by reference herein as Exhibit A.

2. **PROHIBITED ACTIONS:** In an effort to preserve and protect the property, the following activities are prohibited within the Conservation Easement area:

- A. Land Division: Any division or subdivision of the lots upon which this Easement is located.
- B. Commercial Activities: Any commercial or industrial activity.
- C. Placement or Construction: The placement or construction of any manmade modifications, including, without limitation because of enumeration, buildings, structures, fences, roadways or parking lots, except as expressly permitted in this Easement.
- D. Soil Degradation or Erosion: Any use or activity that causes or is likely to cause significant soil degradation or erosion or possibly cause a significant pollution of any surface or subsurface waters.
- E. Removal of Vegetation: Any removal or cutting of trees, shrubs or other vegetation enumerated in the list which is attached hereto and incorporated by reference herein as Exhibit A without the express authorization of the Holder, and of the County of Rock and the State of Wisconsin Department of Natural Resources, if required under applicable regulations.

- F. Land Surface Alteration: Any mining or alteration of the surface of the property without the express authorization of the Holder, and of the County of Rock and the State of Wisconsin Department of Natural Resources, if required under applicable regulations.
- G. Dumping: The dumping or depositing of any waste, unsightly or offensive materials or the accumulation of such items on the property.
- H. Drainage Ways: The alteration of any natural drainage ways.
- I. Off-Road Vehicles: The use of or operation of any motorized off-road vehicles, including without limitation because of enumeration, snowmobiles, all-terrain vehicles, dune buggies or motorcycles on the property.
- J. Billboards and Signs: No billboards or signs of any kind may be erected on the property with the exception of signs that may be displayed to state or show that the area is protected by this Easement, or that there is a prohibition of unauthorized entry or use of the property and any sign advertising the sale of a lot which compromises a part of this Easement area.
- K. Herbicides or Pesticides: No herbicides or pesticides of any kind or nature may be used or applied to the easement property without the express authorization of the Holder, and of the County of Rock and the State of Wisconsin Department of Natural Resources, if required under applicable regulations.

- L. Vehicular or Boat Parking or Storage: No motor vehicle, boat or other water craft shall be parked or stored on the property except adjacent to the shoreline, as may be necessary, during the boating season.

3. **PERMITTED USES:** The following uses may be made of the property which are the subject of this Conservation Easement:

- A. Right to Convey: The fee simple owner of the property, their successors and assigns, shall retain all right to sell, mortgage, bequeath or donate the property affected by this Easement. Any conveyance shall remain subject to the terms and conditions of this Easement and any successor holder in interest shall be bound by such terms and conditions.
- B. Boat Dock, etc.: The fee simple owner of the property, their successors and assigns, shall have the right to install and maintain a boat dock, piers, a shore station or a boat house on or adjoining the property in accordance with and as provided by the applicable State, County and local regulations and standards.
- C. Firewood: The fee simple owner of the property, their successors and assigns, shall have the right to store or stack firewood for their own personal use, used in conjunction with the residence on the property.

4. **COOPERATION:** The Holder believes that the best policy to pursue is cooperation between the Holder of the Easement and the fee simple owners of the property affected

by the Easement. With that in mind, it is agreed and granted that trees or other vegetation, not contained on Exhibit A, may be removed or otherwise managed to, among other things, control insects and disease. Specifically, the Holder believes that it is in the best interest of the Easement area that invasive species such as buckthorn, honeysuckle, garlic mustard and the like be controlled. However, any removal or management of such trees or other vegetation may only be undertaken if it is in accordance with the management plan submitted to the Holder and agreed upon and authorized by the Holder, and of the County of Rock and the State of Wisconsin Department of Natural Resources, if required under applicable regulations. The plan submitted should adequately address the conservation of the trees, shrubs and other vegetation set forth on Exhibit A as well as soil and water conservation, pest management, nutrient management and habitat protection. Any change in the management plan submitted to the Holder, and of the County of Rock or the State of Wisconsin Department of Natural Resources, if required under applicable regulations, must be resubmitted and again be approved by the Holder, and of the County of Rock and the State of Wisconsin Department of Natural Resources, if required under applicable regulations.

5. **RIGHTS OF HOLDER:** The Holder has the following rights which are necessary and appropriate in order to maintain the conservation and environmental values of the property under the terms and conditions of this Easement:

- A. Right to Enter: The Holder or its designees shall have the right to enter the property which is the subject of this Easement at reasonable times and upon reasonable notice to monitor or to enforce compliance with this Easement. They shall not however, unreasonably interfere with the use and quiet enjoyment of the property to which the owner

of the property is entitled. The general public is not granted any right of access to the property which is subject of this Conservation Easement without the prior permission of the owner of the property which is subject to the Easement.

- B. **Right to Preserve:** The Holder has the right and responsibility to prevent any activity on or use of the property that is subject to this Easement which is inconsistent with the terms and purposes of this Conservation Easement.
- C. **Right to Require Restoration:** The Holder has the right to require that the owner of the property restore areas and features of the property which are damaged by activity which is inconsistent with this Conservation Easement.

6. **REMEDIES:** The Holder shall have the following cumulative remedies which are available to them and are subject to the limitations set forth herein:

- A. **Delay in Enforcement:** A delay in enforcement of this Easement and its provisions shall not be construed as a waiver by the Holder of its right to enforce the terms and conditions of this Easement.
- B. **Acts Beyond Control:** The Holder may not bring an action because of modifications to the property which is the subject of this Easement resulting from causes beyond the control of the owner of the property. Examples of such instances are unintentional fires, storms, natural earth movement, trespassers or even the property owners well

intended actions in response to an emergency which result in changes to the property. The Holder may however bring an action against the owner of the property or others responsible for modifications that impair the conservation and environmental values identified in this Conservation Easement.

- C. Notice and Demand: If the Holder determines that the owner of the property is in violation of this Easement or that a violation of this easement is threatened, the Holder shall provide written notice to the property owner unless the violation constitutes what may be an immediate danger and may cause irreparable harm. The written notice, when given, shall identify the violation and request corrective action be taken to cure the violation and to restore the property within the time set forth in the notice.
- D. Failure to Act: The owner of the property shall have twenty (20) days from the date the notice is sent to take corrective action to cure the violation and restore the property. If the owner of the property continues to violate this Easement or if the owner does not abate the violation and implement the corrective measures requested by the Holder, within the time frame agreed upon required by the Holder, the Holder may bring an action in law or in equity to enforce the terms and conditions of this Conservation Easement. The Holder shall also have the right to seek to prevent or enjoin any violation of

this Conservation Easement through injunctive relief, declaratory relief or specific performance, and to require restitution, reimbursement of expenses or may also seek an order compelling restitution of the property which is the subject of this Easement. If a court of competent jurisdiction determines that the owner of the property has failed to comply with this Easement, then the Holder shall also have the right to be reimbursed for all reasonable costs, expenses and attorneys fees incurred in order to compel compliance with this Easement.

7. **TERMINATION:** This Conservation Easement is intended to be perpetual. It may be extinguished only by an unexpected change in condition which causes it to be impossible to fulfill the purposes of this Easement or by the exercise of eminent domain.

- A. **Unexpected Change in Conditions:** If subsequent circumstances render the purpose of this Conservation Easement impossible to fulfill, then this Easement may be partially or entirely terminated however, it may only be accomplished by or through judicial proceedings.
- B. **Eminent Domain:** If the property which is the subject of this Easement is taken, in whole or in part, by the power of eminent domain, then the owners of such property shall be entitled to compensation in accordance with the laws applicable to such eminent domain proceedings in proportion to their interest in the property.

8. **CONSTRUCTION:** This Conservation Easement shall be liberally construed in favor of maintaining the conservation and environmental values described in the Easement for the property affected and in accordance with s.700.40 Wis. Stats..

9. **RECORDATION:** This Conservation Easement shall be recorded in the Office of Register of Deeds for Rock County, Wisconsin.

10. **SEVERABILITY AND CONFLICT:** If any provision of this Conservation Easement or the application of the Easement to any person or circumstances, is found to be invalid, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those which are found to be invalid, as the case may be, shall not be affected thereby.

11. **INTERPRETATION:** This Conservation Easement shall be construed and interpreted in accordance with the laws of the State of Wisconsin.

TOWN BOARD

TOWN OF BELOIT

ROCK COUNTY, WISCONSIN