

Drawn Extra 40
Bill Dorrard 42

-1-

AND SEED BEHIND CURB AFTER CURB IS INSTALLED.

yard unless a storm sewer is located in the front. **EACH LOT OWNER WILL BACKFILL** compliance with the approved subdivision drainage plan. Sump pumps shall drain to the rear owner, as a part of the post home construction, is responsible to bring his/her lot into full veneer face. Driveways must be paved within eighteen (18) months of occupancy. Each lot dwelling is thirty-two (32) feet. All exposed concrete on porches must have brick or stone minimum of 7/12 pitch. No three (3) story house shall be allowed. The maximum height for attached garage for not more than three (3) cars. Roof pitch on each dwelling will be a single family dwelling not to exceed two and one-half (2 1/2) stories in height and a private No building shall be erected, altered, placed, or permitted to remain on any lot other than one **LAND USE AND BUILDINGS.** All lots will be used for **SINGLE FAMILY** dwellings only.

1. PURPOSE. The purpose of these restrictions is to insure the use of the property for attractive residential purposes only, to prevent nuisances, to prevent the impairment of the attractiveness of the property, and to maintain the desired tone of the community, and thereby, to insure to each site owner the full benefit and enjoyment of his/her home, with no greater restriction on the free and undisturbed use of the site than is necessary to insure the same advantages to the other site owners.

NOW THEREFORE, in consideration of the aforementioned purposes, it is agreed that the following protective covenants and restrictions are established and binding upon the above described property.

AND WHEREAS, such owner believes it is advisable to establish protective covenants and restrictions which will preserve and protect the beauty, value, and desirability of the above described property for the benefit of all the owners thereof and their heirs, personal representatives, successors and assigns.

Lots 1 through 48, inclusive are designated as;
SILVER BIRCH ESTATES SUBDIVISION,

located in the City of Menasha, Calumet County, Wisconsin.

WHEREAS, the owner contemplates the sale and transfer of various parcels and lots in the following described real estate situated in Calumet County, Wisconsin, to wit:

SILVER BIRCH ESTATES

NAME AND RETURN ADDRESS
Michael H. Hagens
N319 BreezeWood Drive
Appleton, Wisconsin - 54915

RECORDING DATA

Register of Deeds
Calumet County, WI
Received for Record
Date: 9/11/06 14:08
Debra L. Tasch



Document #: 409286

RESTRICTIONS AND COVENANTS

DOCUMENT NUMBER

7. **GARAGE SIZE.** A maximum of four (4) car wide garage is allowed. No more than three (3) garage doors are allowed to face the roadway. The garage may be as deep as needed.
8. **BASEMENT and GARAGE CONCRETE.** All homes shall have basements or footings extending a minimum of four (4) feet below grade and all garages shall have standard concrete/masonry footings and flooring.
9. **USED BUILDINGS.** No used buildings shall be moved onto any lot.
10. **COMPLETION.** All homes and garages shall be completed before home is occupied, except for the interior of the lower level of ranches, split-levels, and quad-levels.
11. **HEIGHT.** No dwelling shall exceed two and one-half (2 1/2) stories in height above the finished grade level.
12. **TEMPORARY STRUCTURE.** No structure of a temporary nature, trailer, tent, shack, barn or similar structure shall be permitted on any lot, either temporarily or permanently. No structure, other than a fully completed residence, shall be occupied.
13. **EASEMENTS.** Easements for the installation and maintenance of utilities and drainage facilities are reserved with the dedicated roadways, drainage and areas as designated on the recorded plat.
14. **TRASH.** All trash and waste shall be kept in sanitary containers. Each lot owner is required to perform maintenance and upkeep of their lot. No trash, waste, brush, weeds or long grass is permitted. Seller is not liable for any unauthorized dumping of lawn clippings, dirt, brush or other materials deposited on lot or in drainage way after closing.
15. **MINIMUM AND MAXIMUM GRADES.** Finished grade at building wall facing the street shall be not more than two (2) feet or less than one (1) foot above the elevation of the center line of the street at the center of the lot. On corner lots, finished grade at the building walls facing the streets shall be not more than two (2) feet, nor less than one (1) foot above the average elevation of the center lines of the two streets at the center of the lot. If the building is placed more than seventy-five (75) feet back from the street right-of-way, grade can vary from the restriction, but must be approved by the developers. On a lot where the grade changes more than twelve (12) inches from on street lot corner to the other, the siding on the low side of the dwelling must be dropped an amount equal to the change in grade in excess of the above referenced twelve (12) inches. (Example: If one front lot corner is 24 inches below the other front lot corner, the siding must be dropped 12 inches on the low side.) No dwelling, house, structure, lawn, landscaping, or fence may be erected on any lot in the subdivision until the proper grades have been set in accordance with the approved drainage plan for the subdivision. Grades are to be set by a licensed land surveying firm with the costs and charges of this process borne by the lot owner.

- 3. **NUISANCES.** No noxious or offensive activity shall be carried out upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
- 4. **MINIMUM SQUARE FOOTAGE REQUIREMENTS.**
 - A. Single Story Residences shall contain a minimum of 1,500 square feet of living space, excluding breeze way and attached garage. Corner lot homes, shall have a minimum of 1,450 square feet, excluding breeze way and attached garage. Unattached one story accessory garage 24 x 28, six sided, is allowed on all corner lots. Roofing & siding shall match the existing home. Lot 1, Lot 33, and Lot 48 shall contain a minimum of 1,360 square feet and must contain a three (3) car garage.
 - B. One and one-half (1 1/2) Story Residences shall contain a total minimum living space of 1,800 square feet, excluding breeze way and attached garage.
 - C. Two (2) Story or Two one-half (2 1/2) Story Residences shall contain no less than 1,000 square feet of living space on the ground floor, excluding breeze way, porch, sun room, and attached garage. Total square footage of all floors shall contain a total minimum of living space of 1,800 square feet.
 - D. Split-levels, tri-levels, quad-levels shall contain no less than a total minimum of 2,000 square feet of living space, excluding breeze way, porch, sun room and attached garage.
 - E. No raised ranches, earth homes, geodesic domes, log homes, and manufactured homes are not allowed to be constructed nor moved onto any lot.
 - F. All exposed concrete on porches, below porch slab, must have brick or stone veneer face.
- 5. **SIGNS AND ANTENNAE.** No sign or antenna, including earth stations (satellite dishes) shall be displayed or exposed to the public view, except as follows:
 - F. One professional sign of not more than one (1) square foot.
 - G. One sign of not more than five (5) square feet advertising the property for sale or rent.
 - H. One sign of not more than ten (10) square feet, used by the builder to advertise the property during the construction and sales period, except that the Developer may utilize signs of any size for advertising properties in said subdivision for sale.
 - I. No antennae may extend more than five (5) feet above the roof line.
 - J. No solar panels can be visible from the front yard.
 - K. Satellite dishes, of no more than two (2) feet in diameter and attached directly to the dwelling, are allowed.
- 6. **SET-BACKS.** All buildings must be set back a minimum of twenty five (25) feet from the street right-of-way line and must have minimum side yards of seven and one half (7.5) feet.

- No lot owner shall block, dam, or otherwise obstruct the flow of the surface water drainage so as to cause such water to back-up onto the lot of another property 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 grade. Lawn and landscaping to be completed within one year of occupancy is strict compliance with approved subdivision drainage plan. Any walkout or exposed windows from lower level, must have approval of the developer and the City of Menasha.
16. **HOME EXTERIORS.** No green, blue, nor yellow siding shall be allowed on any residence or garage in *Silver Birch Estates Subdivision*.
17. An architectural Review Committee, Michael H. Hagens or two or more members, shall be appointed by the Owner/Developer. The Architectural Review Committee shall be charged with the power to pass approval of all plans of residences to be constructed in the subdivision. No residences may be constructed without approval of the Architectural Review Committee. The Architectural Review Committee shall approve or deny the design and location. The external design shall be harmonious and conform to the set back lines. Variations are to be approved only where, in the opinion of the Committee, it is deemed to be harmonious and pleasing to the effect of the entire neighborhood or where variations are required by the topography of the land. Refusal or approval plans and specification by such Committee may be based on any ground, including purely aesthetic grounds, which, in the sole and uncontrolled discretion of the Committee, shall seem sufficient. Copy of the blueprint shall be submitted to the Architectural Review Committee for approval.
18. **PETS, LIVESTOCK, AND POULTRY.** No animals, livestock, poultry, fowl, reptiles, or pigeons of any kind shall be raised, bred, or kept on any lot with the exception of a dog or cat, which shall be limited in number to a total of two (2) in any one household, or goldfish, a parakeet, or a hamster, provided that said pets are not kept, bred, nor maintained for any commercial purpose. However, nothing contained herein shall be construed to permit the keeping of any dog, cat, or other pet which shall in any way constitute a nuisance.
19. **STORAGE.** No unlicensed vehicles will be permitted on any lot unless stored within a garage. No campers, recreational vehicles, boats, trailers, garden tractors, nor lawn maintenance equipment will be permitted to be stored on any lot unless stored within a garage or shed.
20. No contractor, expediter, nor realtor may buy two (2) lots side by side, unless house plans are submitted to the Developers for approval. When two (2) lots are purchased with the intent of building one home with the second lot being used for yard, the owner shall conform to the grading plan of the subdivision. The empty lot shall be graded as if residence had been constructed on it. In no case can the grade from the lot with the residence on it be projected over the empty lot creating a steep drop-off in grade at the property line of the adjoining lots owned by others.

21. During construction, no access to the building site shall be allowed over adjacent lots. If any damage is done to the adjacent lots or ditches, the owner of the residence under construction shall restore or pay Developer for the restoration of said property to its pre-damaged condition.
22. **FENCING and SWIMMING POOLS.** Chain link fencing will be allowed as lot line dividers. Wood fencing, no more than six (6) feet in height, is allowed as long as said fence does not restrict, limit, nor interfere with view. Constructed side of fence must face the lot owner of the fence and not the lot of the adjoining neighbor. *No stockade fence construction is allowed. Board-on-Board or Basket weave construction is required. Above ground pools are NOT allowed. Wood piles must be placed where it can not be seen by the public.*
23. **DIVISION OF LOTS.** No lots shall be re-subdivided to create a larger number of lots and not more than one residence shall be erected nor constructed upon any lot.
24. **EXCESS MATERIAL.** No excess material shall be removed from the subdivision without the consent of the Developer.
25. **TERMS.** The covenants and restrictions herein contained, shall be in effect until 1 January 2026, after which time they shall be automatically extended for successive periods of then (10) years, unless an instrument terminating or reducing the term shall be executed and recorded in accordance with the requirements and procedures set forth in the following paragraph.
26. **AMENDMENT.** The Developer shall have the right to remove, modify, annul, waive, change and/or amend, at any time and in any manner by a written declaration setting forth such amendment as long as the Developer owns any lot or parcel of the Subdivision. Once the Developer no longer owns any lot in the Subdivision, a covenant may be changed, altered, or added, if a petition, signed by a minimum of 60% of the property owners of the Subdivision, is submitted for recording.
27. **ENFORCEMENT.** The Developer and/or any Lot Owner in the Subdivision may enforce these covenants and restrictions using any available legal or equitable remedies including, without limitation, affirmative or restrictive injunctions. In the event of litigation to enforce these covenants and restrictions, the non-performing party violating any of the covenants and restrictions shall reimburse the Developer and/or the Lot Owner bringing the action for the actual expenses, including actual attorney's fees and court costs, incurred by them in successfully enforcing these covenants and restrictions.
28. All decisions of the Developer shall be enforceable against any Lot Owner, if made in a good faith exercise of the judgment or discretion of its members so long as such decision is not clearly in conflict with the express provision of this declaration. Any Lot Owner or other person seeking to avoid, set aside or challenge any such decision of the Developer shall have the burden of proof to establish that such standards were not met at the time the decision was made.

29. 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.

IN WITNESS WHEREOF, Michael H. Hagens, Paul Hermesen, and Carl A. Bowers, owners/developers, Silver Birch Estates Subdivision, have hereunto set their hand this 21st day of August, 2006.

Michael H. Hagens
Michael H. Hagens
Managing Member
Carl A. Bowers
Carl A. Bowers
Member
Paul Hermesen
Paul Hermesen
Member

STATE OF WISCONSIN)

SS

COUNTY OF CALUMET)

Personally came before me this 21st day of August 2006, the above-named Michael H. Hagens, Paul Hermesen, and Carl A. Bowers to me known to be the persons who executed the foregoing instrument and acknowledge the same.

Carol Ann Hagens
Carol Ann Hagens

Notary Public
Outagamie County, Wisconsin
My commission expires July 12, 2009



Drafted by and Return to:
Carol Ann Hagens
Silver Birch Investments, LLC
N 319 BreezeWood Drive
Appleton WI 54915