

4001 State Route 159  
Suite 107  
Smithton, IL 62285

A02040407

MAY 01 2007

1487

STATE OF ILLINOIS  
ST. CLAIR COUNTY  
BELLEVILLE IL 62220

01 MAY -1 PM 2:23

*Michael T. Burt*

RECORDER

State Imposed  
Surcharge

Rental Housing surcharge: \$10.00 Wildwood Estates West Restrictions

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b.  
WHEREAS, there has been recorded in the Recorder's Office of St. Clair County, Illinois on the 3<sup>rd</sup> day of May, 2006 in Plat Book 107 on page 27 as document number A01975811, a certain Real Estate Subdivision Plat know as "Wildwood Estates West", the legal description of the Property so platted as follows, to wit:

A Subdivision of part of the S.E. ¼ of the S.E. ¼ of Section 7, the West ½ of the S.W. ¼ of the S.W. ¼ of Section 8, and outlot "A" of 2<sup>nd</sup> addition to Wildwood Lake Estates in Section 17 T 2 S.R.8W of the 3<sup>rd</sup> P.M. all in the Village of Smithton, Illinois.

Situated in St. Clair County, Illinois, Prairie Du Long Township, in the Village of Smithton; and

WHEREAS, said plat and the premises shown thereon are, and shall hereafter be, made part hereof, and,

WHEREAS, the maker of this Indenture, Herbert H. Frentzel (Junior) and Leland C. Nollau, Smithton, Illinois, are the owners of the premises comprising said "Wildwood Estates West Subdivision" (hereinafter called the "Premises" or the Subdivision); and,

WHEREAS, the undersigned does desire to impose upon said Premises certain easements, conditions, restrictions, reservations and limitations.

NOW THEREFORE, in consideration of the mutual advantages to accrue to the present owner of said Premises, as well as to the future owners of said Premises, there is hereby imposed on said subdivision certain easements, conditions, restrictions, reservations, and limitations, all of which are hereby made a part of the plat of said "Wildwood Estates West" above described.

1. Building Locations. No building, or part thereof, shall be erected or placed on any lot in the Subdivision;

- A. Nearer to the roads than the building lines shown on the plat of any said Subdivision unless approved by the Architectural Control Committee.
- B. Less than 15 feet from any lines defining the limits of ownership of abutting property.
- C. All setbacks are final unless changes are approved by the Architectural Control Committee.

2. **Easements.** All easements as shown on said recorded plat shall be, and the same are hereby, set aside and reserved for the wires, pipes, water meters, gas meters, sewer and other subdivision essentials and facilities, except that easements placed within a public access road shall not impair the use of said property for roadway purposes. All utility wires, pipes and lines, including telephone, electric, gas, water and sewage, shall be buried underground (except to the extent that emergencies require otherwise).

No building or structure, retaining wall or other interfering obstruction may be erected, constructed or maintained within, on or over and easement as shown in said plat, or which may hereafter be established, without the approval of the Architectural Control Committee, and the utility companies which may be using said easement for their facilities' underground cable or pipes, etc.

The owner of each lot shall, at all times, with respect to said easement, properly care for same and keep same free from unsightly accumulations, weeds, debris, and other such matter.

3. **Nuisances.** No loud, noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, an annoyance or a nuisance to the occupants of the other lots.

All motorized vehicles shall be used in such a manner so as to avoid loud or disturbing noises emanating therefrom.

4. **Garbage, Refuse Disposal and Weeds.** No junked or abandoned vehicles, objects or materials shall be permitted on any lot nor shall there be permitted the accumulation of garbage, trash or other debris. All garbage, trash or other debris shall be stored, prior to its quick removal, in sanitary containers and out of view of neighbors. Trash and garbage shall not be placed at the curb until after sunset of the day before pickup.

No weeds exceeding six (6") inches in height shall be allowed on any open areas except where terrain prohibits mowing or areas left in their natural state. Such violations of same thereby causing the Developer to arrange mowing of said weeds or brush, which expense the Lot Owner shall pay.

5. **Storage of Vehicles.** All vehicles, trailers, campers, boats, and motor homes must be stored, when not in use, in an enclosed garage. Parking of motor vehicles on the street, on a regular basis, is prohibited.
6. **Motorized Vehicles.** Motorized vehicles not requiring registration with the State of Illinois (excluding construction, landscaping, and maintenance equipment) shall be prohibited from using the public access roads of the Subdivision.
7. **Oil, Gas, and Other Minerals.** No oil drilling, oil development, oil refining, quarrying or mining operation of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot.

8. **Fuel Storage Tanks.** No gas, oil or fuel tank shall be permitted on any lot. All tanks, of any kind, are prohibited.
9. **Temporary Facilities.** No structure of a temporary character, mobile home, trailers, basements, tents, shacks, garages, barns, or other outbuildings, shall be used on any lot at any time as a residence, either temporarily or permanently or temporarily parked.
10. **Hedges and Fences.** No hedges, solid fences or fences over four (4) feet in height shall be permitted. All fences must be a minimum of 5 feet off of the property line on both sides and the back of the property. No fence shall be erected, placed, or altered on any lot nearer to any street than the rear corner of said dwellings. Only fences constructed of vinyl, wrought iron or aluminum shall be permitted. No steel, wood or woven fences shall be permitted. No permanent fence or retaining wall shall be constructed or erected within any easements and/or utility property easement unless approved by the Architectural Control Committee. In any event, for removal of such fence for maintenance or other purpose of removal and /or replacement of such fence or other improvements shall be the sole responsibility of the property owner. In the event, of the removal of any hedge, shrub, fence or planting, there shall be no liability accrued by those properly authorized to make such removal and no right for damages shall accrue to the property owner as the result of the aforesaid removal. All plans must be presented to the Architectural Control Committee for approval.
11. **Sale of Lots.** No lot shall ever be sold for public road purposes except by the developers/declarants.
12. **Division of Lots.** No lot in the Subdivision may be further divided into a building lot.
13. **Swimming Pools & Sports Equipment.** All swimming pools shall be of a permanent construction and under no conditions will an above ground pool be permitted. All plans for swimming pools must be approved by the Architectural Control Committee prior to start of construction. No outside clothes lines will be permitted. All basketball hoops must be permanent in concrete and approved by the architectural control committee.
14. **Sewage Disposal.** No individual sewage disposal system shall be permitted on any lot. All lots are required to tap-in and use the main sewage system.
15. **Statues.** No statues, including, but not limited to, deer, jockeys, flamingos or lawn ornaments, political advertisements, or structures of any kind shall be permitted unless they have the prior approval of the Architectural Control Committee.
16. **Animals.** No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats and other household pets may be kept, provided they are not kept for breeding or maintained for any commercial purposes, and provided further, that they shall be confined to the lot of their owner, and not be permitted to run at large. No steel enclosures, or outside kennels or pet houses shall be permitted.
17. **Signs.** No sign of any kind shall be displayed to the public eye on any lot except:
  - A. One sign of not more than five (5) square feet on a side, the purpose of which shall be to advertise a premise for sale.

- B. Signs used by a builder to advertise the premises during the construction and sale period.
  - C. Any size or type of sign the undersigned owner, or agent of the undersigned owner, with the owner's permission, may choose to erect, for the purpose of advertising the sale of lot and/or structures in said Subdivision.
18. **Land Use.** All lots in the Subdivision shall be used exclusively for one family, residential purposes. No private business, business office, or advertisements for business shall be allowed. One and only one building shall be used on each lot except for bath houses facilities for a swimming pool or gazebo, and they must be approved by the Architectural Control Committee.
19. **Detached Buildings.** No Detached Buildings, garages, sheds, etc are permitted for any reason.
20. **Maintenance of Lawn, Land, Etc.** All Lot Owners shall maintain the land in good condition and repair. All lawns are to be kept properly cut and trimmed, not to exceed four (4) inches in height.
- Each Lot Owner assumes the responsibility for maintenance and care of his Lot in accordance with the general standards prescribed for this Declaration.
- Any grading of the Lot that the owner shall undertake shall be in accordance with established and recognized landscaping and or engineering practices in order that proper drainage shall be provided. In the event any grade is disturbed or changed by any purchaser or occupant, the Developer is herewith held harmless and hereby indemnifies from any and all consequences to adjacent parcels and such owner or occupant disturbing or changing any grade shall be considered as having violated this Declaration. In the event that dirt is removed in construction of a driveway and or lane, pool, etc. the dirt must be removed from the Lot or used so as to interfere with surface drainage as established above.
- Declarant shall not be responsible for chemical damage to grass, flowers, bushes, shrubs, etc. which results from farm related spray applications on property adjacent to Lots referred to herein. Any disputes relative to said kind of damage, if any, shall be between the Lot Owner and the farmer-tenant operator in the spraying activity.
- There shall be no hunting on grounds within the Subdivision except for damaging animals such as rodents which shall be exclusively controlled as determined by the Declarant and/or the Homeowners' Association.
- No Lot Owner shall allow debris to collect on his Lot. Each owner shall also be responsible for the proper and dutiful maintenance of his lawn.
- Proper maintenance of berms and monuments in the roadway and cul de sacs shall also be the responsibility of the Association.
21. **Satellite Dishes, Solar Panels, Antennae.** No satellite dishes larger than 24" in diameter shall be allowed. All Satellite dishes must be installed on the rear side of the home. No exterior television or radio antenna, towers or similar structures are permitted on any Lot.
22. **Lighting Controls.** Any light used for the illumination of signs, parking areas, swimming pools or for any other purpose, shall be arranged in such a manner that the main beam of light



is directed away from neighboring residential properties. Light design must be approved by the Declarant and/or the Homeowners' Association.

23. **Speed Limit.** The speed limit for vehicles on the subject premises in twenty-five (25) miles per hour, except as otherwise posted.
24. **Dwelling Size.** All dwelling structures must contain the following minimum square footage, not including garages, porches, verandas, basements, breezeways, terraces, outside steps and platforms.
  - A. One-story dwellings – 2000 square feet.
  - B. Split level, one and one-half, and two-story dwellings – 2600 square feet.
  - C. Not to exceed 2 stories, front elevation, in height, and a private garage for not more than 4 cars, except when approved by the Architectural Control Committee.
  - D. No flat roofs are allowed; all roofs must have a minimum of 6/12 pitch except porch roofs are a minimum of 4/12 pitch.
  - E. All dwellings shall be approved by the Architectural Control Committee.
25. **Construction Materials.** The exterior shall be constructed of brick, stone or drivit on the front of the home and garage, excluding gables on ranches. Two-story homes must have brick up to the first story and garage gables. All plans must be approved by the Architectural Control Committee. All other areas are to be vinyl, concrete siding or alternative approved by the Architectural Control Committee. If concrete is exposed more than 8 inches above the ground it must be approved by the Architectural Control Committee. No outside walls shall be covered with exposed asbestos, asphalt, fiber or gypsum materials, or concrete blocks. No underground, mobile, modular, manufactured, pre-fabricated, or log homes are permitted. All residences must have a minimum two car, maximum four car attached garage. Carports are prohibited.
26. **Driveways.** All driveways must be constructed of concrete, bituminous concrete and constructed at the time of the building construction. The minimum width of the driveway shall be 10 feet.
27. **Off-Street Parking.** All dwelling houses are required to provide parking facilities on the premises for all vehicles operated by persons living in the dwelling, and the streets and roadways of Wildwood Estates West are not to be used for parking purposes by the persons living in the Subdivision.
28. **Drainage.** Nothing shall be done on the Lots to constitute an interference with water run-off or rainwater from an adjacent Lot so as to interfere with proper drainage of any part of the Subdivision, without proper approval of the Declarant and/or the Homeowners' Association (hereafter defined) after it is established. All Lots shall be so graded and sloped so that a drainage course shall be along the side property lines, equally spaced on both adjoining Lots where feasible or to other natural drainage areas as appropriate.
29. **Terms of Restrictions.** These restrictions shall run with the land and bind the Subdivision and be effective for a period of twenty-five (25) years from the recording date hereof and shall be automatically renewed for successive ten (10) year periods thereafter unless by written instrument signed by not less than two-thirds (2/3) of the then owners of Lots in the Subdivision terminate, amend or alter said restrictions or a portion thereof.

30. **Exceptions.** The Developer of the above described real estate may use any house or houses constructed on any Lot in the Subdivision for an office and display house during the development of the Subdivision and marketing period until all Lots owned by the Developer are sold.
31. **Common Ground(s).** The Association through the Board of Directors, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management, maintenance and control of the Common Ground(s), and all improvements thereon (including furnishings and equipment related to them, if any; and certain storm sewers and shall keep such Common Ground(s), and all improvements thereon (including furnishings and equipment related to them, if any) in good, clean, attractive and sanitary condition, order, and repair (including but not limited to grass cutting, mulching and general landscaping of the Common Ground(s)). There are no lake privileges for any lot owners of Wildwood Estates West.
32. **Architectural Control Committee.** The Architectural Control Committee shall be comprised of Wildwood Construction Company, Inc. and Herbert H. Frentzel (Junior), until such time that the aforesaid shall resign by giving notice of such resignation in writing to the Wildwood Estates West Subdivision Association or by publishing such notice of resignation one time in a newspaper of general circulation in the area of the Village of Smithton, Illinois. Wildwood Construction Company, Inc. and Herbert H. Frentzel (Junior) shall remain the Architectural Control Committee until such time as Wildwood Construction Company, Inc. divests itself of all ownership in any property located in Wildwood Estates West Subdivision as well as any additional phases that may be added to such development at the direction of Wildwood Construction Company, Inc. At the time Wildwood Construction Company, Inc. resigns as the Architectural Control Committee, the Homeowners Association for the Wildwood Estates West Subdivision shall have the authority to appoint a person or persons as the successor Architectural Control Committee.
33. **Failure to Comply with Enforceability and Validity.** Each and every grantee by accepting any conveyance or, interest of any of said lots, or any part thereof, thereby binds himself or herself (as the case may be) and all the heirs, successors, assigns and legal representatives of each and every grantee, to the observance of and the compliance with the restrictions and provisions of this indenture. If any violations of the restrictions and provisions of the indenture or failure of observance thereof, or failure of compliance thereof with, is not cured or corrected within 10 days after notice thereof has been mailed or delivered by any one or more owners of said lots, or any part thereof, to the offending owner or owners, or person or persons, in possession thereof, it shall be lawful in order that such violation be cured or corrected or to recover the damages therefore or parts thereof to institute and prosecute any proceedings at law or in equity against any and all parties involved in such violation or failure of observance, or failure of compliance as aforesaid, including the owner or owners of the involved lot or lots, or any part or parts thereof. It is hereby expressly declared and provided however, that the maker of this indenture, or owners of the lands comprising this Subdivision at the time of its recording, shall not, under any circumstances, be held responsible or liable for the enforcement of the restrictions and provisions of the indenture as against any person or persons who may hereafter own or control any one or more of said lots or any part or parts thereof, which the maker of this indenture shall not at the time own or fully control. Violators of this indenture shall pay all costs, including reasonable attorneys' fees for enforcement of same. The failure to promptly institute proceedings for the enforcement of these restrictions shall not operate as an

estoppel against the enforcement of the violated portion of these restrictions or for any portion thereof.

In case of any one or more of the restrictions and provisions of this indenture shall prove to be unenforceable or invalid, the enforceability, validity or binding effect of the other restrictions and provisions of this indenture shall in no way be affected thereby they shall, nevertheless, remain in full force and effect.

34. **Homeowners' Association.** Owners of Lots in Wildwood Estates West shall be members of an association to maintain and pay for the expense connected with the common areas, including berms and easements. The association shall also govern the use of all Common Items reflected on the recorded plats for the respective subdivision. Common items shall include: berms, entrance monument, entrance monument lighting, detention areas, and all other items set forth in the By-laws in force and as amended from time to time. Membership by owners shall be mandatory.

The association shall be responsible for the maintenance, repair and replacement of all Common Items; however, the areas adjoining Common Items shall be the maintenance responsibility of the lot owner or owners on which they are located for ordinary maintenance, with the exception of berms and the areas between berms. The association shall have the full responsibility for the maintenance of the berms and areas between the berms. The association shall also have the full responsibility for extraordinary maintenance, repairs and replacement of Common Items. The Homeowners' Association's Officers, Designated Agents, Contractors and Subcontractors shall have access over and upon sufficient space of each lot to allow for extraordinary maintenance, necessary repairs and/or replacement of the Common Items.

The Homeowners' Association shall be governed by a Governing Board and/or Board of Managers, and/or Association Manager pursuant to the By-laws in force and as amended from time to time.

The Homeowners' Association shall be created by the Developers of Wildwood Estates West. The Developers shall adopt the initial By-laws and pay for all expenses of creating the association and all common maintenance with the Annual Common Area Maintenance Fees. The Annual Common Area Maintenance Fees shall be due and payable on a calendar year basis and shall be prorated as a closing expense when lots are sold including at the initial sale of each lot. **The initial annual assessment shall be \$100 paid at the time of closing.** To the extent Annual Common Area Maintenance Fees are insufficient for payment of expenses, the shortfall shall be paid by the Developers until the Homeowners' Association elects officers from the owners of lots developed in Wildwood Estates West. Thereafter all expenses shall be paid as provided in the By-laws of the Homeowners' Association.

The initial By-laws shall provide for a permanent and perpetual Homeowners' Association to be totally within the control of the lot owners for Wildwood Estates West. Each lot owners shall be entitled to one vote on all matters requiring a vote. The By-laws shall further provide for the procedure for assessing Annual Common Area Maintenance Fees and all other costs incidental to the maintenance of the Homeowners' Association including Special Assessments, if any, necessary from time to time for the preservation of the association and Common items. Similarly they shall provide for payment enforcement procedures which shall include the creation of a lien and the foreclosure of such lien against any lot upon which the Annual Common Area Maintenance Fees and/or Special Assessments are unpaid.

The Homeowners' Association shall be a totally autonomous entity, and may be incorporated under the General Not-For-Profit Corporation Act of the State of Illinois. The association shall initially be unincorporated; however, in the event it is incorporated, thereafter the corporation shall thereafter be the governing body. In the even no corporation is formed, the By-laws enacted by the Developers of Wildwood Estates West shall control the association as said By-laws are from time to time amended.

35. **Number, Election and Term.** The number of Directors of the Association shall be three (3), each of whom shall initially be appointed by the Declarant and known as the Original Directors. The Original Directors shall serve until their successors are elected or appointed as hereinafter provided. Should an Original Director resign, refuse to act, become disabled or die, the Declarant shall have the power to appoint, by duly written, recorded instrument, a successor Director who shall serve until his successor is elected by the Members in the manner hereinafter provided.

At such time as fifty percent (50%) of the Lots developed for single family homes have been sold and transferred of record, the three (3) Original Directors initially appointed shall be replaced by election of the Members. The members shall elect three (3) successor Directors, one (1) of which shall be elected to serve for one (1) year, one (1) of which shall be elected to serve for two (2) years, and one of which shall be elected to serve for three (3) years from the date of election. Thereafter, all Directors shall be elected for terms of three (3) years each.

Whenever replacement by an election is required hereunder, an election shall be held at a meeting of the Members called for that purpose, after notice thereof as provided in the Bylaws. Any Director elected under the provisions of this Article shall be a Member. If the record owner of a Lot is a corporation, the President or Vice President of the corporation may designate a person in its behalf as a person eligible for appointment or election as a Director. In the case of the death, resignation or disqualification of any one or more of the Directors, other than the Directors appointed by the Declarant, a successor or successors of such Directors shall be elected by the Members at a meeting called for that purpose after notice thereof as provided in the Bylaws. Where the provisions of this Declaration cannot be fulfilled by reason of unfilled vacancies among the Directors, the County Board of St. Clair County, Illinois (or equivalent government entity), may, upon petition of any Lot Owner or resident of the Subdivision, appoint one or more Directors to fill vacancies until such time as Directors are elected in accordance with the Bylaws. Any person so appointed who is not a Lot Owner or a resident of the Subdivision shall be allowed a reasonable fee for his or her services by the order of appointment, which fee shall be levied as a special assessment against the Property in the Subdivision, and which shall not be subject to any limitation on special assessments contained in this Declaration or elsewhere.

The initial By-laws shall also provide for the enactment of rules and regulations applicable to the common areas, Common Items, and all other items subject to governance of the Homeowners' Association.

36. **Amendment of Declaration.** A.) In addition to any other right of amendment or modification provided for in this Declaration, in which case those provisions shall apply, Declarant may, in its sole discretion, by an instrument filed or record, modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of this Declaration so long as the same do not substantially impair the general development plan of the Development.

B.) Except as set forth in the paragraph above, the process of amending or modifying this Declaration shall be as follows:

(i) Until the Turnover Date as defined in the Indenture, all amendments or modifications shall be made only by Declarant without the requirement of the Association's consent or the consent of the Owners; provided, however, that the Association shall, forthwith but not more than ten (10) days after request of Declarant, join in any such amendments or modifications and execute such instruments to evidence such joinder and consent as Declarant shall, from time to time, request. Failure to so join and consent to an amendment or modification, if any, shall not be cause to prevent such modification or amendment from being made by Declarant or to affect the validity thereof.

(ii) After the Turnover Date, this Declaration may be amended (1) by the consent of the Lot Owner of two-thirds (2/3) of all Lots together with (2) the approval or ratification of a majority of the Trustees of the Association. Any such revocations, modifications, amendments or supplements shall be effective only if expressed in a written instrument or instruments executed and acknowledged by each of the consenting Owners and the Declarant, if applicable, certified by the Secretary of the Association and recorded in the Office of the Recorder of Deeds of St. Clair County, Illinois.

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