

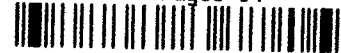
DOCUMENT # 1166592

Office of Register of Deeds
Dodge County, Wisconsin
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DECLARATION OF COVENANTS FOR
THE WAUPUN BUSINESS PARK

September 06, 2011 9:05 AM

CHRIS PLANASCH - Registrar
Fee Amount: \$30.00
of Pages 14



Document Number:

Return Address: Vande Zande & Kaufman, LLP
Post Office Box 430
Waupun, WI 53963
(920) 324-2951

Parcel ID Number: See attached Exhibit "A"

THIS DECLARATION is made by the City of Waupun, a Wisconsin municipal corporation ("the City") to establish covenants for the Waupun Business Park.

The City owns parcels of real estate located within the Business Park described in Article One of this declaration.

The City desires to subject the Business Park to certain conditions, covenants, restrictions, reservations and easements for the purposes set forth below.

The City further desires to retain the general supervision, administration and enforcement of these covenants, as such need may arise while these covenants remain in operation.

THEREFORE, in consideration of the factors set forth above, the City declares that the real estate identified in Article One below shall be held, transferred, sold, conveyed and occupied, subject to the following conditions, covenants, restrictions, reservations and easements.

ARTICLE ONE
DESCRIPTION, PURPOSE AND DEFINITIONS

A. Real Estate Description. The restrictions, covenants, reservations and easements set forth in this declaration shall apply to real estate described on the

attached Exhibit "A" to this declaration, and to any part or division thereof, all of which is located in the City of Waupun, Dodge County, Wisconsin. The real estate identified on the attached Exhibit "A" may be referred to in this declaration as "the real estate" or "the Business Park."

B. Declaration of Purpose. The purpose of these covenants is to ensure use of the Business Park for attractive commercial and industrial purposes only, to prevent nuisances and any impairment of the value and attractiveness of the real estate, and to maintain the desired quality of the Business Park. In so doing, the City seeks to secure the full use, benefit and enjoyment of the Business Park by each owner to the greatest extent possible, while maintaining appropriate consideration for neighboring owners and the Waupun community as a whole. The standards and requirements contained in these covenants shall be liberally construed to give effect to this purpose.

C. Definitions. The following definitions shall apply with respect to these covenants:

1. "Business Park" shall mean the real estate which is legally described on the attached Exhibit "A" to these declarations, and to any part or division thereof.

2. "City" shall mean the City of Waupun, acting by and through its Common Council, or its City Administrator or his or her designee, or any committee, agency or subunit that is duly authorized by the Common Council to act on behalf of the City of Waupun.

3. "Design Plans" shall mean written documentation or drawings describing and illustrating in detail the design of all buildings and other

improvements, including without limitation building site plans, landscaping plans and architectural drawings and specifications.

4. "Exterior Storage Area" shall mean any area on a site that is set aside for temporary or permanent storage of products or materials used in connection with the business operations conducted on site, or for the temporary storage of trash and recyclables prior to disposal.

5. "Fence" shall have the same definition as that used in the Zoning Code that pertains to fences in an industrial zone.

6. "Frontage" shall mean all of the real estate abutting on one side of a street or road, or all of the real estate between two intersecting streets or roads.

7. "Improvement" shall mean any structure, or any parking or loading areas, fences, walls, landscaping, hedges, lawns or mass plantings located above ground on the real estate.

8. "Open space" shall mean that portion of any site or building area that is not improved by the placement of a structure, parking or loading area, driveway, walkway or exterior storage area.

9. "Site or Building Area" shall mean any lot, area, tract or parcel of land in the Business Park on which a structure has been or may be erected in conformance with the standards, requirements and restrictions contained in these covenants.

10. "Structure" shall have the same definition as that used in the City of Waupun Zoning Code. Unless otherwise indicated in these

covenants, the term “structure” shall include, without limitation, any “accessory building or structure” as that term is defined in the Zoning Code.

11. “Zoning Code” shall mean the City of Waupun Zoning Code currently codified as Chapter 16 of the Waupun Municipal Code, including any amendments or alterations to such Code provisions after the date of this document.

ARTICLE TWO CONSTRUCTION AND DEVELOPMENT REQUIREMENTS

The following construction and development standards and requirements shall apply to the Business Park:

A. Division of Real Estate. The division of any lot, area, or tract of land within the Waupun Business Park for any purpose, whether immediate or future for conveyance, transfer, improvement or sale shall comply with the City’s subdivision ordinance.

B. Building Frontage and Setback. Each site shall contain a minimum frontage of one hundred feet (100’). No structure shall at any time be erected on any site within twenty-five feet (25’) of any abutting street or road right-of-way, within fifteen feet (15’) from any boundary lines of such site that do not abut a street or road right of way, or within ten feet (10’) of any railroad right of way.

C. Construction Design, Materials and Appearance. The following standards and requirements shall apply with respect to any structure or other improvement constructed or otherwise located on any site:

1. All structures and other improvements shall be designed and constructed in conformance with all applicable building and other State, County and municipal codes. In addition, all structures and other improvements shall be designed, constructed and used so as to present appropriate and visual aesthetics consistent with these covenants as determined by the City in its sole discretion.

2. At least twenty-five percent (25%) of that side or sides of any principal structure fronting any street shall be faced with decorative concrete, brick, masonry, or stone that extends across the full front side of the building. This requirement shall not apply to any accessory structure. All other sides of any structure shall be finished in an attractive manner, but need not be finished in a like manner as that portion or portions of the principal structure fronting any street.

3. An accessory structure shall only be constructed in the rear yard of the principal structure.

4. No docking, loading or exterior storage area shall be located on any building site that abuts on Wisconsin State Highway 26 (Watertown Street), unless a structure on that site or other improvement approved by the City completely screens or obstructs such docking, loading or exterior storage area from highway view. Opaque screening such as evergreen plant material is acceptable. A chain link fence is not acceptable.

5. Yard hydrants or wall hydrants, where required by state or municipal codes, shall be required to be placed as directed by the Waupun Fire Department at the owner's expense.

6. All parking and loading areas shall comply with the Waupun Zoning Code. Driveways and exterior storage areas shall be paved with hot-mixed asphalt or Portland cement concrete. All walkways shall be constructed of Portland cement concrete.

D. Signs. No signs shall be permitted on a building site other than signs which advertise the product or business of the owner or occupant, or which describe the name of the owner or occupant. No signs shall be permitted which extend above the elevation of the roof line of the closest building to the sign on the site. Signs shall not contain any flashing lights or moving parts. Ground signs shall not exceed six feet (6') in height. Design plans for all signs shall be approved by the City prior to installation. These restrictions shall not apply to temporary signs advertising the real estate for sale or rent.

F. Vision Triangle Obstruction. No fence, wall, hedge or shrub, plant or tree which obstructs a sight line at an elevation of two feet above the roadway shall be placed or permitted to remain on any corner within the triangular area formed by street right of way lines and a line connecting them at points forty feet (40') from the intersection of the street right of way.

G. Landscaping. The open space on any site shall be attractively landscaped with lawns, trees, shrubs or similar plantings. All landscaped areas shall be properly maintained in a well-kept condition, as determined in the discretion of the City.

H. Design Plan Approval. No structure or other improvement shall be constructed, erected, placed or altered on any building site until design plans shall have been approved in writing by the City in its discretion.

ARTICLE THREE OCCUPANCY AND USE REQUIREMENTS

The following occupancy and use standards and requirements shall apply to the Business Park:

A. Construction and Occupancy Timelines. Each purchaser shall complete all construction and occupy and use the building site in accordance with City approved design plans within eighteen (18) months after purchase unless within this time a written extension is granted by the City in its discretion. The paving of all parking and loading areas, driveways, walkways and exterior storage areas shall be completed within this same time period, unless prior written extension not to exceed twelve (12) months is granted by the City in its discretion. If the purchaser fails to substantially complete construction within these timelines, the City shall have the option to immediately repurchase the real estate at a price equal to that paid by the purchaser, or seek such other enforcement as may be permitted by law or equity.

B. Permitted Uses. Building sites shall only be occupied and used for the following purposes, together with any uses incidental to the following purposes: manufacture, processing, fabrication, packaging, assembly, warehousing, wholesaling, repair, storage, transportation, printing, publishing, supply, distribution, and industrial servicing. Any such occupancy and use is only permitted where it is also in compliance with the Waupun Zoning Code. Professional or other office occupancy and use is

permitted only where incidental to a permitted use identified in the Waupun Zoning Code.

C. Exterior Storage. Materials and products to be stored outside of any structure shall be kept exclusively within an exterior storage area constructed in compliance with the building setback lines and in the rear yard of the site, as determined in relation to the building site frontage. Exterior storage areas shall be screened from view from all site boundaries with a solid fence or such other opaque screening as may be approved by the City in its discretion. All fences or other screening shall be kept in good repair and appearance as determined by the City in its discretion.

D. Garbage, Dumping and Burning. No building site shall be used or maintained as a dumping ground for refuse or debris of any kind. All trash, recyclable materials and debris shall be stored within an exterior storage area and only on a temporary basis pending disposal. Exterior storage areas used for the storage of trash shall be screened from view from all site boundaries with a solid fence or such other opaque screening as may be approved by the City in its discretion. The height of stored material or trash shall not exceed the height of the fence. No open burning shall be conducted on any site.

E. Sound Restrictions. No activity or operation shall exceed the maximum sound level permitted under the Waupun Zoning Code. This restriction shall not apply to noise resulting from temporary construction or maintenance, emergency, safety or warning devices, or noise that is not under control of the building site owner, or those acting under the owner.

F. Odor. No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in Section NR 429.03 of the Wisconsin Administrative Code, or any successor provision of this Code.

G. Particulate Matter. No operation or activity shall emit any particulate matter into the ambient air that exceeds the limitations as established in Chapter NR 436 of the Wisconsin Administrative Code, or any successor provision of this Code.

H. Air Emissions. No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility in excess of the limitations established in Chapter NR 431 of the Wisconsin Administrative Code, or any successor provision of this Code.

I. Hazardous Substances. No operation or activity shall emit any hazardous substance in such quantity, concentration or duration as to be injurious to human health or property, all in accordance with the limitations established in Chapter NR 445 of the Wisconsin Administrative Code, or any successor provision of this Code.

J. Parking and Loading. No Street in the Business Park shall be used for on-street parking or loading.

K. Underground Utilities. All utilities within a site shall be underground, including without limitation, electricity, telephone, gas, cable, and water and sewer service. Electric lines exceeding 12,000 volts shall only be installed by the Waupun Utilities, and the location of such lines shall be approved by the Waupun Utility Commission or its designee prior to installation.

**ARTICLE FOUR
ENFORCEMENT, MODIFICATION AND TERMINATION**

A. Enforcement. The City of Waupun shall remain a party in interest for the purpose of enforcing these covenants so long as they remain in force, notwithstanding any subsequent conveyance of all or any portion of this real estate to third parties. However, no violation or breach of any covenant, condition, restriction or other term or provision of these covenants shall under any circumstances cause a reversion of title, except as otherwise specifically provided in these covenants. The City of Waupun may enforce these restrictions through any proceedings at law or in equity and against any persons violating or threatening to violate such restrictions, and may recover any damages suffered for any such violation, together with its actual costs, expenses and reasonable attorney's fees with respect to such enforcement. In addition, the City in its discretion may assign its rights of enforcement with respect to any violation to any third party.

B. Modification. The City is empowered to authorize temporary or permanent exceptions to these covenants in special cases on written application of any building site owner or occupant, provided such exceptions conform to the intent of these covenants and are in conformance with the Waupun Zoning Code. No permanent exception shall be effective until written notice thereof is recorded with the Dodge County Register of Deeds. The covenants, agreements, conditions, reservations and restrictions created here may not be waived, terminated or modified except as provided in this subsection.

**ARTICLE FIVE
GENERAL PROVISIONS**

A. Abrogation and Greater Restrictions. These covenants are not intended to repeal, abrogate, annul, impair, or interfere with any ordinances, rules, regulations, or permit requirements adopted or issued pursuant to any federal, state or municipal law. However, it is understood and intended that these covenants may impose restrictions that are greater than those provided by any federal, state or municipal law, and where this occurs, the greater restriction shall apply.

B. Partial Invalidity. If any covenant, condition or restriction contained here, or any portion thereof, is found to be invalid or void, such invalidity shall in no way affect any other covenant, condition or restriction contained in these protective covenants.

C. Binding Effect. All rights and obligations provided here shall run with all real estate subject to these covenants, and each and every parcel thereof as may be subject to division, and such rights and obligations shall inure to the benefit of and bind all subsequent owners and those claiming under them, as well as their successors in interest. The City shall record this declaration with the Dodge County Register of Deeds to provide public notice of these terms and provisions.

Dated this 26th day of August, 2011.

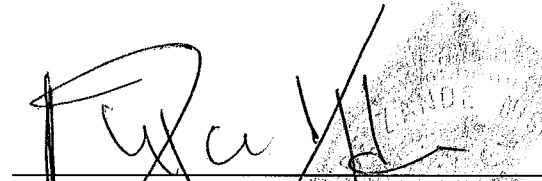
City of Waupun

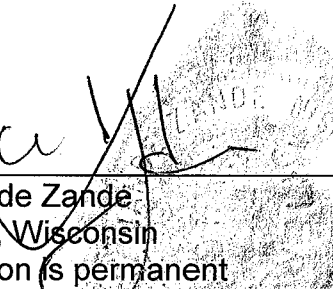
By Jodi Steger
Jodi Steger
Mayor


Angela Hull
City Clerk

ACKNOWLEDGMENT

Personally appeared before me this day and year above written, Jodi Steger as Mayor of the City of Waupun, and Angela Hull as Clerk of the City of Waupun, to me know to be the persons who executed the foregoing instrument and acknowledge the same.


Daniel L. Vande Zande
Notary Public, Wisconsin
My Commission is permanent



These covenants were drafted by Attorney Daniel L. Vande Zande.

013

EXHIBIT "A"

REAL ESTATE SUBJECT TO WAUPUN BUSINESS PARK COVENANTS

Parcel 1:

Lot 2 of Certified Survey Map No. 2131 as recorded in Volume 13 of Surveys at page 242 as Document No. 703772, City of Waupun, Dodge County, Wisconsin.
(Pin No. 292-1315-0813-000)

That part of Lot 1 of Certified Survey Map No. 4369 as recorded in Volume 27 of Surveys at page 227 as Document No. 869388, lying in Lot 1 of Certified Survey Map No. 2131 as recorded in Volume 13 of Surveys at page 242, being part of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and part of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 8, Township 13 North, Range 15 East, City of Waupun, Dodge County, Wisconsin.

(Pin No. 292-1315-0813-005)

Parcel 2:

Lot 3 of Certified Survey Map No. 2377 as recorded in Volume 14 of Surveys at page 342 as Document No. 718443, City of Waupun, Dodge County, Wisconsin.
(Pin No. 292-1315-0812-003)

Lot 1 of Certified Survey Map No. 3497 as recorded in Volume 21 of Surveys at page 46 as Document No. 804174, City of Waupun, Dodge County, Wisconsin.

(Pin No. 292-1315-0813-003)

That part of Lot 1 of Certified Survey Map No. 4369 as recorded in Volume 27 of Surveys at page 227 as Document No. 869388 lying in Lot 1 of Certified Survey Map No. 2132 as recorded in Volume 13 of Surveys at page 245, being part of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ and part of the Southeast $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 8, Township 13 North, Range 15 East, City of Waupun, Dodge County, Wisconsin.

(Pin No. 292-1315-0813-007)

Lot 1 of Certified Survey Map No. 2589 as recorded in Volume 15 of Surveys at page 309 as Document No. 730832, City of Waupun, Dodge County, Wisconsin.

(Pin No. 292-1315-0814-002)

Lot 2 of Certified Survey Map No. 3905 as recorded in Volume 24 of Surveys at page 55 as Document No. 832524, City of Waupun, Dodge County, Wisconsin.

(Pin No. 292-1315-0814-008)

Lot 1 of Certified Survey Map No. 2132 as recorded in Volume 13 of Surveys at page 245 as Document No. 703773, City of Waupun, Dodge County, Wisconsin. EXCEPT Certified Survey Map No. 2518 as recorded in Volume 15 of Surveys at page 181; EXCEPT Certified Survey Map No. 2589 as recorded in Volume 15 of Surveys at page 309; EXCEPT Certified Survey Map No. 3027 as recorded in Volume 17 of Surveys at page 332; EXCEPT Certified Survey Map No. 3152 as recorded in Volume 18 of Surveys at page 230; EXCEPT Certified Survey Map No. 3744 as recorded in Volume 22 of Surveys at page 279; EXCEPT Certified Survey Map No. 3864 as recorded in Volume 23 of Surveys at page 245; EXCEPT that part of Certified Survey Map No. 3905 as recorded in Volume 24 of Surveys at page 55 lying in said Lot 1; EXCEPT Certified Survey Map No. 4265 as recorded in Volume 26 of Surveys at page 272; EXCEPT that part of Certified Survey Map No. 4369 as recorded in Volume 27 of Surveys at page 227 and Certified Survey Map No. 4998 as recorded in Volume 32 of Surveys at page 158 lying in said Lot 1.

(Pin No. 292-1315-0814-009)

Lot 1 of Certified Survey Map No. 4265 as recorded in Volume 26 of Surveys at page 272 as Document No. 859018, City of Waupun, Dodge County, Wisconsin.

(Pin No. 292-1315-0814-010)

Lot 2 of Certified Survey Map No. 2132 as recorded in Volume 13 of Surveys at page 245 as Document No. 703773, City of Waupun, Dodge County, Wisconsin. EXCEPT Certified Survey Map No. 4808 as recorded in Volume 31 of Surveys at page 39. EXCEPT that part of Certified Survey Map No. 4998 as recorded in Volume 32 of Surveys at page 158 lying in said Lot 2.

(Pin No. 292-1315-0842-001)

Lot 4 of Certified Survey Map No. 2589 as recorded in Volume 15 of Surveys at page 309 as Document No. 730832, City of Waupun, Dodge County, Wisconsin.

(Pin No. 292-1315-0814-005)