

**VILLAGE OF ELLSWORTH**  
**CROSSING MEADOWS BUSINESS PARK**  
ELLSWORTH, WISCONSIN

**DECLARATION OF PROTECTIVE COVENANTS**

Adopted by the Village Board of the Village of Ellsworth on November 6, 2006.

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**DECLARATION OF  
PROTECTIVE COVENANTS FOR  
VILLAGE OF ELLSWORTH  
CROSSING MEADOWS BUSINESS PARK**

**THESE PROTECTIVE COVENANTS**, hereinafter referred to as "Covenants", made this 6th day of November, 2006, by the Village of Ellsworth, hereinafter referred to as "Declarant" or "Village", **WITNESSETH**:

**WHEREAS**, Declarant is the owner of the property described below, which property is located in the Village of Ellsworth, Pierce County, Wisconsin; and

**WHEREAS**, Declarant desires to subject such property to the restrictions, covenants and reservations contained herein for the benefit of the property and the benefit of each owner of any part of the property, and for the purpose and with the intent of providing for the orderly and attractive grouping of buildings and operations;

**NOW THEREFORE**, the Declarant hereby declares that the real property hereinafter described shall be held, sold, conveyed, transferred, used and improved only subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, which shall bind and inure to the benefit of the Declarant, its successors and assigns, and to all parties hereafter having any interest in the property.

**1. THE PROPERTY.**

The following property known as the Village of Ellsworth Crossing Meadows Business Park (the "Park") is made subject to the provisions of these Covenants:

Lots Six (6), Eight (8) and Nine (9) Crossing Meadows Subdivision.  
Subject to easements and highway rights of way of record.

The Covenants declared herein shall run with the land and shall affect the Park and each part thereof and any interest in the Park or any part thereof for all purposes, and shall be binding upon and inure to the benefit of Declarant, its successors and assigns, and all owners, lessees and occupants of property in the Park, and to all parties hereafter having any interest in the property and their successors and assigns.

**2. USE RESTRICTIONS.**

**A. PERMITTED USES.**

All building sites (lots) within the Park shall be used solely for office, laboratory, research, servicing, light industrial operations, light manufacturing operations, day care, commercial pickup and delivery services, public and private utility facilities and governmental maintenance facilities, printing and publishing, retail sales of commodities manufactured, processed, fabricated or assembled on the premises, commercial bakeries, pest control services, small animal care, dry cleaning and laundries (does not include laundromats) wholesaling, distribution purposes, strip commercial center, restaurant, convenience store/gas station, car wash, funeral home, health club, hospital, hotel or motel, post office, fast food restaurant, or financial institutions, quick lube/tire shops and similar and ancillary uses approved by the Village Board (Board) subject to conditions of these Covenants and applicable ordinances of the Village of Ellsworth.

## **B. PROHIBITED USES.**

No schools, cold storage warehouse, smelter, mini-warehouse, heavy manufacturing operation, truck terminal, freight transfer facility, junk or salvage facility, animal processing operation, solid waste handling facilities, major utility, mining, residential uses, recreation and outdoor entertainment, off-premise advertising signs, adult entertainment establishment, self-storage facilities, kennel, mobile home or RV sales and service, service stations including truck stops, vehicle and equipment sales, asphalt or concrete plant, bulk gas and bulk fuel storage/sales, vehicle repair or service, vehicle body shops, communication towers and communication antennas not mounted on existing structures, detention facilities, or churches or religious institutions, will be permitted on such sites.

No nuisance or offensive or noxious odors, lighting, fumes, dust, smoke, noise, vibration, pollution, glare or other nuisance, or hazardous uses by reason of excessive danger of fire or explosion shall be permitted in the Park. There may be no storage of fireworks in the Park. Determinations of nuisance shall be made by the Board upon the basis of written complaint or on its own initiative. Standards for nuisance or offensive and noxious use shall be those of the Village of Ellsworth, Pierce County, State of Wisconsin, or the Federal Government. Such offensive uses shall be measured at the property line as it would adversely affect adjacent operations or land use.

## **3. APPLICATION PLANS AND APPROVAL.**

### **A. APPLICATION PROCEDURE.**

Prior to construction, expansion or alteration of the shape, size or appearance of any building or other structure or improvement in the Park, or change of use of any existing building or any separate tract or parcel of land ("Site"), written descriptions of use and operations, preliminary building and site plans and outline specifications (the "Application Plans") shall be submitted to the Village Clerk. Each owner shall obtain the services of an architect and/or engineer in the development of the Application Plans.

No building, structure or other improvement shall be constructed, altered or placed upon any Site until the appropriate Application Plans shall have been first approved in writing by the Board upon recommendation of the Plan Commission.

Among the factors which will be considered shall be the proposed exterior building materials and design, the color and general appearance of the structure, overall site configuration, roof design, roof mounted equipment, screening, landscaping site lighting and erosion and sediment control plans.

Application Plans shall include fifteen (15) sets of written and scaled drawings as outlined below:

1. Description of proposed use and operation.
2. Site plan, indicating building location, topography, drainage, survey description, parking layout, driveway and access locations, site lighting and exterior storage screening and locations.
3. Drainage and erosion control plan.
4. Landscape plan, submitted by a registered landscape architect.

5. Floor plan(s) with locations for loading docks and utility meters indicated.
6. Drawings showing all exterior building elevations indicating building materials, colors and building heights.
7. Building and site improvement specifications including types of construction materials, color and manufacture.
8. Sign design and specifications.
9. Site and building lighting (exterior) design and specifications.

The address and telephone number of the Owner or other person designated to receive the response of the Plan Commission and/or Village Board shall be included with the submission of the Application Plans.

**B. APPROVAL.**

The Plan Commission shall hold a public hearing on the Application Plans not less than thirty (30) days following submittal of the Plans. The Plan Commission shall issue its recommendation to the Village Board within fifteen (15) days of its meeting. A copy of the written recommendation of the Plan Commission shall be sent to the Owner or its representative. Upon receipt of recommendation of the Plan Commission the Village Board shall conduct a review of the Application Plans and approve, approve with modification, or deny the Application Plans.

**C. DISAPPROVAL.**

If the Plan Commission recommends the Application Plans not be approved it shall specify the reasons for such disapproval in writing within fifteen (15) days following its hearing thereon. If the Village Board disapproves the Application Plans it shall specify the reasons for such disapproval to the owner or its representative in writing within fifteen (15) days following the Board Meeting at which such plans were considered. Thereupon the owner may submit revised Application Plans for review by the Plan Commission and public hearing will be held by the Plan Commission followed by another hearing of the Village Board. Only one such re-application may be made without submitting an additional review fee.

**D. SURETY.**

The Board shall require that a Letter of Credit, surety bond, or other adequate security(ies), with terms acceptable to the Village Board and Village Attorney, be provided to the Village of Ellsworth in the amount of the cost of the landscaping and paving work to be performed pursuant to Application Plans submitted in order to assure landscaping and parking lot paving are installed as approved.

**E. GUIDELINES.**

In order to assist Owners in complying with these Covenants, the Board may publish, from time to time, Site and Building Guidelines (the "Guidelines"). The Guidelines may pertain to such matters as drainage and erosion control, signage, building materials, lighting standards, screening or any related matters. The Guidelines may be updated at any time, in the sole discretion of the Board, to reflect developments in applicable technology or to include changes deemed necessary or advisable, and shall be available to any Owner upon request. To the extent such Guidelines are published, approval of Application Plans by the Board shall be in accordance with the Guidelines as updated from time to time.

However, the Guidelines shall not constitute amendments or modifications of these Covenants, and in the event of any conflict or inconsistency, these Covenants shall control.

**F. APPLICATION FEE.**

Each applicant shall submit with its Application Plans an application fee in an amount as is established from time to time by the Board by Resolution.

**4. SITE RESTRICTIONS.**

**A. NO REDIVISION OF LOTS.**

There shall be no redivision of any lots within the Park without express written permission of the Board.

**B. SIGNS.**

All signs shall comply with Chapter 46, Zoning Ordinance, of the Village. Signs in the Park shall be of approximately uniform height as approved by the Board. Signs advertising products or services other than those produced or provided on the premises or by affiliates are prohibited.

**C. BUILDING SETBACKS.**

All building setbacks shall be in compliance with the setbacks required under Chapter 46, Zoning Ordinance, of the Village.

**D. PARKING.**

Each lot shall provide for such parking as is required by Chapter 46, Zoning Ordinance, Village of Ellsworth, and setbacks shall be as required under said Ordinance. Also see Section 5 herein.

**E. STORAGE.**

No fuel or chemical in-ground storage that is not in compliance with applicable Federal, State and Local laws and regulations shall be allowed in the Park. No outdoor storage of articles, goods, materials, finished or semi-finished products, incinerators, storage tanks, refuse containers or like equipment shall be permitted except as provided in Section 7.A herein. No fireworks (as defined in §167.10, Wis. Stats.) or explosives may be manufactured, stored or permitted in the Park; except, retail sales of small amounts of fireworks incidental to the operation of a convenience store may be permitted when approved by the Village Board.

**F. ANCILLARY STRUCTURES.**

No water tower, storage tank, processing equipment, solar collector, telecommunications equipment, cooling tower or other ancillary structure or outside equipment shall be constructed, erected or placed in the Park without the prior approval of the Board.

G. FREIGHT HANDLING.

All loading docks shall be on the side(s) of a building that does not face a street.

H. CANOPIES.

No truck canopies with visible wall hangers will be permitted in the Park. Design of canopies shall be in keeping with the design of the building.

I. LIGHTING.

Lighting of a Site shall be indirect and of a design and height and shall be located so as to illuminate only the Site. All lighting potentially visible from an adjacent street except for bollard lighting less than 42" high, shall be indirect or shall incorporate a full cut-off shield type fixture. An exterior lighting plan must be approved by the Board. No lighting shall be permitted on any Site which, in the judgment of the Board, could serve as a nuisance or hazard to other sites or the general public.

J. DRAINAGE AND EROSION CONTROL.

The drainage pattern on any Site shall not be changed significantly and no change in the drainage pattern onto lands adjacent to the Site shall be allowed. Specific site drainage, erosion control and grading plans shall be submitted as part of the application Plans. The Owner must comply with the provisions of Section 14.20 of the Municipal Code of the Village of Ellsworth. The Owner shall be responsible for:

1. prevention of erosion of its site
2. control of runoff of silt debris or sedimentation from its Site onto adjacent drain systems or properties
3. removal of any such runoff, erosion or sedimentation, and
4. repair of any damage to such Site or adjacent Site by such runoff, erosion or sedimentation.

In the event an Owner fails to comply with any of the foregoing obligations within 30 days after receipt of notice from the Village, the Village may, in its sole discretion but without any obligation to do so, perform such obligations. If the Village performs the work, all costs incurred shall be assessed to the Owner and added to the Owner's property tax bill for the Site.

Storm drainage from the Site shall be in compliance with all Wisconsin Department of Natural Resources rules and regulations.

K. BUILDING MATERIALS

One hundred percent (100%) of the permanent walls of any building when facing a street and extending twenty (20) feet on either side shall be faced with decorative masonry (brick, stone) approved by the Board. For the purpose of

this restriction standard, lightweight or cinder concrete blocks are not considered decorative masonry. Dry-vit, stucco or other plaster products and decorative brick wainscoting are not considered decorative masonry; however, dry-vit

and/or stucco may be combined with decorative masonry not to exceed a 50/50 ratio to make up the one hundred percent (100%) of the building frontage decorative masonry requirement. The use of glass in lieu of brick on the front of buildings is permitted. Except as otherwise provided herein, the sides and rear of all buildings shall be of masonry brick, concrete block or decorative concrete panels for the first 8 feet from the ground and the remainder of the building shall be of any material approved by the Board. Where concrete block masonry is used, it shall be painted with 2 coats of paint or shall be of decorative pattern block or other decorative treatment of plain block approved by the Board. All faces of all buildings must be kept in good repair and appearance at all times.

**L. INGRESS/EGRESS.**

There shall be no direct access to State Highway 65 or Cross Town Road from any lot within the park.

**M. SITE PLAN APPROVAL.**

In addition to all other requirements of these Covenants, all sites must have Site Plan Approval as required under Section 46.02(7), Zoning Ordinance, Village of Ellsworth.

**N. EXCAVATION**

Excavation is not permitted except in connection with construction of improvements. All exposed openings shall be backfilled and disturbed ground re-graded, leveled and restored to original condition or landscaped in accordance with an approved plan and in accordance with Erosion Control provisions of the Village of Ellsworth Municipal Code.

**5. PARKING.**

**A. GENERALLY.**

Each Site shall be provided with adequate paved off-street automobile parking as approved by the Board and in compliance with Chapter 46, Zoning Ordinance, Village of Ellsworth. No parking will be permitted on any street, driveway or any other place in the Park or on a Site other than in approved parking spaces. Overnight parking of campers, mobile homes, boats, trailers and similar vehicles is prohibited. Overnight parking of trucks and service vehicles shall be appropriately screened from the roadway via fencing, landscaping or berming as approved by the Board.

**B. REQUIREMENT TO PAVE SURFACES.**

All parking surfaces, roadways, driveways and loading areas shall be paved with a bituminous or concrete surface within 12 months after occupancy of the Site. Curb and gutter shall be placed along the borders of all permanent parking areas and permanent driveways. Areas designated for future expansion and storage may be used for parking as an interim use on a surface of recycled asphalt. Otherwise, these areas shall be landscaped in accordance with Section 6 herein. Drive sections are required for all ingress/egress points. (*What is a "drive section"?*)

**C. DRIVEWAYS AND LOADING AREAS.**

Driveway and loading areas shall be large enough to accommodate all vehicle maneuvering on the site. Driveway points of access to public streets must be approved by the Board.

**6. LANDSCAPING.**

**A. OPEN SPACES.**

All open spaces shall be dustproofed, surfaced, landscaped, rockscaped or planted as lawns. The required setback area from any dedicated or reserved public street shall be devoted solely to lawns, trees, shrubs and walkways of a design approved by the Board. Landscaping, as approved by the Board, shall be installed within 6 months of occupancy or substantial completion of the building, whichever occurs first, weather and appropriate planting seasons permitting. No landscaping shall be permitted to obstruct intersection sight lines for vehicular traffic. All unused land that is planned for future expansion shall be maintained and kept free of unsightly plant growth, stored material, rubbish and debris. All areas not devoted to building or parking must be landscaped so as to provide a park-like setting. Areas designated for expansion space on the site plan must be kept mowed and weed free.

**B. WOODLANDS/TREES.**

Woodland areas exist within the Park. It is the intent of the Declarant, to create a quality business environment by preservation of these wooded areas to the greatest extent possible. Therefore, no live tree over three inches in diameter measured one foot above the ground may be removed from any property without the express permission of the Board. Buildings may be built up to woodland areas provided they do not significantly damage root systems. Permission may be granted by the Board for driveways through these areas but not for building plans which would necessitate removal of significant numbers of trees. Any trees removed under this section must be replaced at a ratio of 4 trees for every 1 tree removed.

The Board may require the inclusion of well developed trees, particularly evergreen trees, in the landscaping design in order to further enhance the woodland character of the Park. All new well developed trees must be a minimum of 3½ inches in diameter at breast height (DBH).

**7. SCREENING.**

**A. STORAGE.**

No articles, goods, material, finished or semi-finished products, incinerators, storage tanks, refuse containers, pallets or like equipment shall be kept outdoors or exposed to public view, or to view from adjacent buildings without proper screening as approved by the Board. In the event that such approval is granted, such materials shall be screened from view by completely opaque screens in a manner approved by the Board, and under no circumstances shall such storage occur within 50 feet of any dedicated or reserved public street.

Garbage and refuse containers shall be screened from view with approved enclosures. The proposed location of all storage and all garbage containers shall be shown on the Application Plans and approved before commencement of construction. All such storage areas shall have concrete floors and shall be sufficient in size to contain all refuse generated on each lot.

**B. TEMPORARY STRUCTURES/SIGNS.**

No temporary structures, signs or trailers are permitted without prior approval of the Board, except those belonging to construction companies during periods of construction. Temporary structures, signs or trailers are also subject to the regulations set forth in the Municipal Code of the Village of Ellsworth.

**C. ROOF MOUNTED EQUIPMENT.**

Roof mounted equipment shall be so located and/or screened and/or painted to minimize visibility from streets and adjacent Sites. Antennas necessary for the conduct of business may be erected only with the approval of the Village of Ellsworth.

**D. FENCING.**

No fences shall be constructed on any Site without the approval of the Board. Fencing shall be constructed only of permanent materials such as pressure treated wood, masonry or metal, and shall be approved by the Board in every instance. Planting shall be provided at the base of all fencing where such base is visible from any dedicated or reserved public street. In addition, all fencing shall comply with the provisions of Chapter 46, Zoning Ordinance, Village of Ellsworth.

**E. USE OF ADJACENT LANDS.**

All purchasers of property are hereby notified that, adjacent to the Park are residential and agricultural uses. The agricultural uses may produce sounds and smells which may be offensive to some. Owners are advised that persons using adjoining lands for residential or agricultural purposes may be using the premises for purposes inconsistent or incompatible with Park uses.

**8. UTILITY CONNECTIONS.**

**A. INSTALLATION.**

All utility connections, including all electrical and telephone connections and other installations of wires to buildings, shall be made underground from the nearest available source. No transformer, electric, gas or other meter of any type, or other apparatus shall be located on any power pole. All transformers and meters shall be placed on or below the surface of the property and, where placed on the surface, shall be adequately screened and fenced. All such installation shall be included in and approved as a part of the Application Plans.

**B. EASEMENTS.**

The Village shall have the right to obtain easements at no cost within the setback areas of any Site for the purpose of placing and maintaining Park entrance signs within the Park. Such easements shall be recorded with the Register of Deeds for Pierce County, Wisconsin. Said easements may also appear on the Final Plat (if any) of the Park.

The Village and its assigns may also utilize that area designated as “drainage and easements” on any plat or certified survey map of the premises, or located within ten (10) feet of any boundary line or lot line, for utility purposes.

**9. SIGNS.**

All signs shall be of a design and material approved by the Board in accordance with the guidelines in Exhibit B and Chapter 46, Zoning Ordinance, Village of Ellsworth. On Site directional signage is permitted in any area needed to control traffic or parking provided such signage has received Board approval. The Declarant shall have the right to enforce uniform sign standards throughout the Park.

**10. MAINTENANCE.**

**A. GENERAL SITE MAINTENANCE.**

The owner of a Site shall have the duty of, and responsibility for, keeping the premises, buildings, improvements, appurtenances and landscaping of the Site in a well maintained, safe, clean and attractive condition at all times. Although the Owner may by contract require tenants or occupants to perform these duties, the Owner shall be responsible for duties arising under this Section. All grass, trees and shrubbery must be kept in good appearance at all times. All grass must be kept cut at a height not to exceed 6 inches and weeds must be controlled. Each Owner shall be responsible for removal of any rubbish or trash of any character that may accumulate on a Site. Damaged or cracked areas of all parking lots, sidewalks and other hard surfaces shall be promptly repaired or replaced. The provisions of Section 8.04, pertaining to snow removal and grass cutting, as well as all other pertinent provisions of the Municipal Code shall apply to each Site.

**B. SITE MAINTENANCE DURING CONSTRUCTION.**

During construction it shall be the responsibility of each Owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials.

**C. RIGHT TO ACT ON OWNER'S BEHALF.**

If, in the opinion of the Village, any Owner fails to comply with these maintenance provisions, the Village may give such Owner written notice and such Owner must, with fourteen (14) days of such notice, undertake the care and maintenance required to restore said Owner's property to a safe, clean and attractive condition in accordance with the notice. In the event that such Owner fails to cure the condition after notice, the Village shall have the right and power, but not the obligation, to perform such care and maintenance as it deems necessary or desirable to cure the violation. If the Village performs the work, all costs incurred shall be assessed to the Owner and added to the Owner's property tax bill for the Site.

## **11. CONSTRUCTION OBLIGATION AND REPURCHASE RIGHTS.**

### **A. CONSTRUCTION OBLIGATION.**

Each Owner shall promptly begin, diligently pursue and ultimately complete construction of a building(s) on its Site pursuant to approved Application Plans.

In the event that construction of improvements approved by the Plan Commission has not been commenced within six (6) months of the date of closing the sale of any Site, then, until such construction is commenced, the Declarant shall have the option (the "Commencement Option") of repurchasing the Site from the Owner. Commencement of construction is defined as construction of structural framing above ground level. To exercise the Commencement Option, the Declarant shall provide written Notice of exercise of Option to Owner at Owner's last known address, including the date of repurchase closing. Notice shall be deemed to be received two (2) days after deposit of the notice, postage prepaid, in the U.S. mail. The repurchase, as described in 11.B, shall occur within sixty (60) days of delivery of Notice of Exercise of Option.

If, after commencing construction work on any Site, substantial construction ceases for a period of one hundred eighty (180) consecutive days at any time before the completion of construction as provided in Owner's approved Application Plans ("Cessation of Construction"), the Declarant shall have an option to repurchase the Site at any time within one (1) year of cessation of construction (the "Construction Option"). To exercise such Construction Option, the Declarant shall provide Owner with notice as set forth above. Repurchase, as described in 11.B, shall occur within sixty (60) days of Notice on the date specified in the Notice.

If Owner does not complete construction of the improvements as described in the approved Application Plans and obtain an occupancy permit for the improvements within three (3) years of the date of closing the purchase of the Site, the Declarant shall have an option (the "Completion Option") to repurchase the Site. Construction shall be deemed complete when the business enterprise utilizing the Site is open to the public and ready for business. To exercise the Completion Option, Declarant shall provide written Notice of Exercise of the Completion Option within one hundred eighty (180) days after the expiration of the three (3) year period. Repurchase, as described in 11.B, shall occur within sixty (60) days of Notice on the date specified in the Notice.

### **B. TERMS OF REPURCHASE.**

If the Declarant exercises any of the options described in Section 11.A, at repurchase closing the Owner shall tender a warranty deed free and clear of all liens and encumbrances except municipal and zoning ordinances, recorded easements for public utilities and Covenants approved by the Village, in exchange for a sum equal to Owner's purchase price (the purchase price paid by Owner, or its predecessor, to the Village) for the Site less any unpaid real estate taxes, the proration for the then current year's real estate taxes and the title insurance premium. Owner shall provide the party exercising the option with a title insurance policy for the full amount of Owner's purchase price. Owner shall not receive any compensation for expenditures made by Owner to improve the Site, including Site preparation, construction, materials and labor for construction, architectural and surveying fees, nor for any other expense incurred by Owner.

In the event of repurchase as provided in this section, Owner shall also be liable to the Declarant for all reasonable costs and expenses incurred in retaking and restoring the

Site to marketable condition, and such costs and expenses shall be deducted from the amount of the purchase price paid to the Owner. Owner consents to enforcement of the obligations described in Section 11.A by action for specific performance. In addition, during the ten (10) year period immediately following execution of these Covenants the Village may unilaterally, without consent of any other Owner, modify these Covenants.

**C. RIGHT OF FIRST REFUSAL TO REPURCHASE VACANT LAND.**

In the event that any Owner desires to convey any vacant portion of a Site or a vacant Site (the "Vacant Site"), at any time within three (3) years of closing, Owner shall first give the Declarant the right to purchase the Vacant Site at Owner's original purchase price and on the same terms and conditions as Owner's purchase. Within thirty (30) days of receipt of written notice ("Notice") that Owner wishes to convey a Vacant Site, Declarant shall notify Owner of its decision concerning repurchase. If Declarant decides to repurchase, closing shall occur within sixty (60) days of Declarant's receipt of Notice. If the Declarant is repurchasing a portion of a Site, the purchase price shall be prorated to reflect the total square footage of the Vacant Site as compared to the total original square footage of the Site purchased by Owner.

**12. PERFORMANCE STANDARDS.**

**A. NOISE.**

All noise shall be muffled or otherwise controlled so as not to become objectionable due to intermittence, duration, beat, frequency, impulse character, periodic character or shrillness. Sound levels at the property boundary of any individual parcel shall not exceed the following decibel levels:

Frequency, Cycles per Second	Maximum Sound Level – Decibels	
	7 a.m. - 10 p.m.	10 p.m. – 7 a.m.
0 - 75	72	67
75 - 150	67	62
150 - 300	59	54
300 - 600	52	47
600 - 1200	46	41
1200 - 2400	40	35
2400 - 4800	34	29
Over 4800	32	27

**B. VIBRATION.**

There shall be no operation or activity which would cause ground transmitted vibrations in excess of the limits set forth below the boundary of this district under any conditions, nor beyond the property line if it would adversely affect any other use within the district.

Frequency, Cycles per second	Maximum Permitted Displacement Along Sub-Division Boundaries (in inches)	
0 to 10	.0008	
10 to 20	.0005	
20 to 30	.0002	
30 to 40	.0002	
40 and over	.0001	

C. SMOKE.

Industries which operate on coal and produce smoke will not be permitted in the Park, and no operation may produce obnoxious or continuous smoke, as measured at the point of emission, by any means.

D. FUMES AND GASES.

Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic or corrosive. In no event shall the emission of fumes or gases from a facility exceed at the point of emission any standard set forth in any law, regulation or ordinance of any federal, state or local entity or agency having jurisdiction.

E. DUST.

Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air.

F. ODORS.

Obnoxious odors shall not be permitted. Measurements shall be at the property line.

G. FIRE OR EXPLOSIVE HAZARD.

All operations shall be carried on with reasonable precautions against fire and explosion hazards. Buildings shall be constructed in accordance with all applicable codes regarding such hazards.

H. TOXIC MATTER.

No use shall, for any period of time, discharge across the boundaries of the parcel wherein it is located, toxic matter in such concentrations as to violate any existing regulations or be detrimental to, or endanger the public health, safety, comfort, or welfare, or cause injury or damage to property or individuals.

I. LIQUID WASTE.

No waste shall be discharged into a storm sewer or drainage area except clear and unpolluted water. All waste discharged into the Village's sanitary sewer shall meet the requirements established by the State of Wisconsin and the Village of Ellsworth.

J. ELECTRICAL EMISSIONS.

There shall be no electrical emission beyond the property line which would adversely affect any other use.

K. GLARE AND HEAT.

There shall be no reflection or radiation, directly or indirectly, of glare or heat beyond the boundary of this district under any conditions, nor beyond the property line if it would adversely affect any other use within the district.

L. IONIZING RADIATION.

No operations in the Park shall cause any dangerous radiation, at any property line, in accordance with the United States Atomic Energy Commission, Title 10, Chapter 1, Part 20 "Standards for Protection Against Radiation" dated August 9, 1986 (or any subsequent revisions of these regulations), and the Radiation Protection Standards issued by the Federal Radiation Council, and the National Committee Radiation Handbook.

M. COMPLIANCE GENERALLY.

All activities must comply with all laws, regulations, ordinances and standards established by any authority having jurisdiction with regard to such activities.

**13. APPROVALS.**

All approvals by the Village of Ellsworth shall be in writing. Written approval by the Village of Ellsworth of a particular use or action shall be conclusive evidence of compliance with these Covenants to the extent any use or action so approved is not in violation of any law, ordinance or governmental regulation.

**14. DISCLAIMER OF LIABILITY.**

Neither the Village of Ellsworth nor the Plan Commission shall be liable to any person or entity submitting Application Plans for approval, or seeking any other approval under these Covenants, or to any other person or entity affected by these Covenants, by reason of engineering, architectural or technical errors or omissions in the Application Plans or materials submitted for approval. The Plan Commission shall not be deemed to provide architectural or engineering services in the review and approval of Application Plans, or in any other manner. The Plan Commission shall not responsible for inspection improvements during construction or for ensuring compliance with approved Application Plans.

**15. TERM AND AMENDMENT OF COVENANTS.**

A. TERM OF COVENANTS.

These Covenants shall remain in force for twenty (20) years from the date hereof. Thereafter, these Covenants shall renew automatically for successive periods of five (5) years each unless terminated by a majority vote of the total number of votes available in the Park, provided that the Village consents to termination.

B. AMENDMENT OF COVENANTS.

These Covenants may, at any time, be terminated, extended, modified or amended, with a written affirmative vote of fifty-one percent (51%) of the total number of lot Owners in the Park, provided, however, that, as long as Declarant owns any portion of the Park, no such termination, extension, modification or amendment shall be effective without the written approval of Declarant and further provided that these Covenants may not be terminated, extended, modified or amended without the consent of the Village.

**16. ENFORCEMENT.**

**A. BY LEGAL ACTION.**

These Covenants may be enforced at law or in equity by the Village for the recovery of damages or injunctive relief, or both. However, if any Owner shall file with the Village a written petition for enforcement or commencement by it of proceedings to enforce these Covenants and the Village shall fail to act accordingly within thirty (30) days, or shall refuse such petition, then such petitioner may, within a period of one hundred eighty (180) days after filing such petition, commence an action or proceeding against the violating Owner in law or in equity for enforcement or for damages arising from any violation of these Covenants. The Village shall have no liability to any person or entity for failure or refusal to enforce any provision of these Covenants.

**B. RIGHT TO ACT ON OWNER'S BEHALF.**

In addition to the foregoing remedies, the Village may undertake the obligations of any Owner arising under these Covenants. The right to act on Owner's behalf shall arise if the Owner has not acted to correct a violation of Section 4.J, concerning drainage and erosion control, or Section 10, concerning maintenance, or any other provision herein, after receipt of notice of violation from the Village and an opportunity to cure the violation, as provided in Section 4.J and Section 10.C, respectively.

**17. EFFECT OF INVALIDATION OF ANY PROVISION.**

In any event that any provision of these Covenants shall be held to be invalid by any Court, the invalidity of such provision shall not affect the remaining provisions of these Covenants, which shall continue in full force and effect to the extent enforceable.

**18. WAIVER OF RIGHTS.**

The failure of the Village or any Owner to enforce any provision of these Covenants shall not be deemed to be a waiver of the right to do so thereafter nor of the right to enforce any other restriction.

**19. INSPECTION.**

The Village may, from time to time, at any reasonable hour or hours, enter and inspect any Site or improvements to ascertain compliance with these Covenants. The Village shall use its best efforts not to compromise security measures and shall strive not to interfere with normal conduct of business when inspecting property under this provision.

**20. RIGHT TO RE-SUBDIVIDE.**

At the time of purchase of a Site from Declarant, such Site shall be considered as a single building site for all purposes hereunder. Re-subdividing of such Site by Owner shall not be permitted without prior approval of the Village.

**21. MUNICIPAL RIGHTS OF APPROVAL.**

All pertinent requirements of governmental agencies shall be applicable to the development of the Park and all construction in the Park must be approved by the

Village according to applicable building and zoning codes and regulations as set forth in the Municipal Code of the Village of Ellsworth.

**22. TERMINATION OF DECLARANT'S RIGHTS.**

The rights of Declarant under these Covenants, as set forth in Section 14.B, shall terminate upon the sale by Declarant of all property in the Park. A subsequent purchase by Declarant of property within the Park shall reinstate rights of Declarant under the section specified above.

**23. REAL ESTATE AND PERSONAL PROPERTY TAXES.**

It is understood that the property subject to these Covenants in the Park is located within a Tax Incremental Finance District and that any purchaser, as well as any successors or assigns, shall be responsible for payment of real and personal property taxes, or a payment in lieu thereof in equal amount, notwithstanding any other provisions of law, nor shall the property be exempt from personal or real property taxes. This condition shall run with the lands conveyed as part of the Crossing Meadows Park because of the Tax Incremental Finance District and because the property is being sold at below market value.

**24. MUNICIPAL CODE OF THE VILLAGE OF ELLSWORTH.**

These Covenants shall not serve to abrogate the site development and building construction regulations or any other regulations specified in the Municipal Code of the Village of Ellsworth. Site development and building construction plans shall be submitted to the Board for approval.

**25. RIGHTS OF MORTGAGEES.**

No breach or violation of these covenants, conditions and restrictions shall defeat or render invalid the lien of any mortgage, deed of trust, or similar instrument securing a loan made in good faith and for value with respect to the development or permanent financing of any lot or portion thereof; provided that all of these restrictions shall be binding upon and effective against any subsequent Owner of the property or any portion thereof whose title is acquired by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise pursuant to such lien rights. The lien of an assessment under Sec. 10.C or otherwise herein is hereby subordinate to the lien of any mortgage on a lot in the Park, provided that the mortgage secures only funds actually advanced to the lot owner (or its predecessor) for purposes relating to the lot, or the improvements, fixtures or equipment located thereon.

**APPROVAL OF PROTECTIVE COVENANTS**

The undersigned, Village of Ellsworth, Ellsworth, Wisconsin, a municipal corporation, pursuant to resolution of its Board, hereby approves these Protective Covenants for the Crossing Meadows Business Park, made and entered into by the Village of Ellsworth, Wisconsin, as Declarant on \_\_\_\_\_, 2006.

IN WITNESS WHEREOF, this instrument has been executed on behalf of the Village of Ellsworth, Wisconsin, by its duly authorized representatives.

**VILLAGE OF ELLSWORTH, WISCONSIN**

By: \_\_\_\_\_  
Gerald DeWolfe, President

Attest: \_\_\_\_\_  
Peggy Nelson, Clerk

**ACKNOWLEDGMENT**

STATE OF WISCONSIN     }  
                                      } ss.  
COUNTY OF PIERCE     }

Personally came before me this \_\_\_\_\_ day of \_\_\_\_\_, 2006 the above named Gerald DeWolfe and Peggy Nelson, to me known to be the persons who executed the foregoing instrument and acknowledge the same.

\_\_\_\_\_

Notary Public Pierce County, Wis. My Commission expires: \_\_\_\_\_

THIS INSTRUMENT DRAFTED BY:  
Robert L. Loberg  
Loberg Law Office

## **EXHIBIT “A”**

### **Guidelines for Sites and Buildings Crossing Meadows Business Park**

#### **Aesthetic Evaluation**

The intent or purpose of this section is to provide principles and standards for use by the Board in the preparation and review of site and building plans proposed within the Park with emphasis on and the primary objective being the heightening of the visual character of the sites and buildings proposed and, thereby, the entire community. It is understood that such visual enhancement is also expected to be maintained over time and not be only an initial accomplishment to be forgotten.

1. No building shall be permitted the design or exterior appearance of such unorthodox or abnormal character in relation to its surroundings so as to be unsightly or offensive to general accepted taste and community standards.
2. No building shall be permitted the design or exterior appearance of such an identical nature with those adjoining so as to create excessive monotony or drabness.
3. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty and aesthetics of the Park, particularly insofar as it would adversely affect values incident to ownership of land in the Park or which would unnecessarily have an adverse effect on the aesthetics of existing structures on adjoining properties.
4. No side or facade of a building or structure is exempt from public view and, consequently, all sides or facades should be visually pleasing and architecturally and aesthetically compatible.
5. Certain building materials present a visual statement of strength and permanence to the immediate environment and to the community and will be encouraged, while materials that made a building or structure appear temporary will be discouraged.
6. Principal and accessory buildings, lighting, landscaping and signage presented for review shall be carefully designed so as to compatibly integrate architectural style, size, shape, building material, color and texture, landscaping, lighting and signage.

## **EXHIBIT “B”**

### **Uniform Sign Standards**

Proposed signage in the Crossing Meadows Business Park must be included in the Application Plans and approved by the Village of Ellsworth. Due to the infinite possibilities and combinations of building designs, site plans and signage requirements, it is impossible to lay out every specific single requirement. Therefore, while the Declarant is setting forth these signage standards, final approval of all signage in the Crossing Meadows Business Park will be made by the Village of Ellsworth.

All guidelines or policies expressed in this manual are subject to any additional approvals that are required by the Village of Ellsworth.

#### Identification Signs

##### 1. Definition of Identification Sign.

The principal sign identifying the name of the building or the name of the company occupying the building. Also, contains the building address (number) in a consistent location on the sign. The sign may also contain a limited amount of descriptive information, usually no more than two or three words, indicating such things as “regional headquarters”, “distribution center”, etc. There may be only one free standing (ground mounted) identification sign (and a second smaller sign no more than ten (10) square feet in size immediately adjacent to the building) for each lot including double fronting lots. In lieu of a free standing ground mounted identification sign, one identification wall sign is permitted under paragraph b. below or where the building fronts on two streets, two wall signs with individual characters mounted in relief on the facade of the building will be permitted. Where deemed appropriate by the Village of Ellsworth, one wall sign not to exceed 102 square feet in area may be permitted in addition to the free standing ground mounted identification sign.

a. Pylon-type signs are not permitted within the Business Park. Landscaped planters or ground mounted signs shall not exceed fifty (50) square feet per side in area and shall be no higher than eight (8) feet (a second smaller sign of no more than ten (10) square feet in size immediately adjacent to the building is permitted).

b. Wall identification signs may be either raised letters or cabinet signs and may have a maximum area per side of no more than 300 square feet and may not extend more than six (6) inches from the outside of the building wall. Where two wall signs are permitted, both wall signs shall be identical.

c. Identification signs may be lighted from the outside by lights designed to illuminate only the sign and surrounding planting, or may be internally lighted, but shall not contain any strobe type or revolving lights or devices directing beams of light.

d. No signs may be placed on top of any building roof or any vehicle.

e. No billboards may be placed anywhere within the Business Park including any lot or rooftop.

## 2. Single Tenant Buildings.

- a. There may be only one identification sign per building (ground mounted) and it must be placed between the street and the front of the building perpendicular to the street, and having identical identification on both sides.
- b. The design of the sign (size, graphics, color, etc.) must conform to the design parameters described in this section unless otherwise approved by the Village of Ellsworth.
- c. The identification sign shall be constructed according to the following design parameters:
  1. A base, 96" long by 60" wide by 16" high, constructed to compliment the building.
  2. Inset 30" high by 80" long.
  3. Raised, baked enamel, anodized aluminum or brass logo and/or letters of a color to be chosen by the property owner, and of a size which fits proportionately within the inset.
- d. Letter height shall not exceed a maximum of 24" for the company name, 6" for any descriptive information and 3" for the street address.
- e. The sign must contain the street number at the bottom.
- f. Unless otherwise approved by the Village of Ellsworth, the maximum height of the identification sign is 60" from ground level to the top of the masonry.
- g. Identification signs shall be lighted from the outside by lights designed to illuminate only the sign and surrounding planting. Such lighting shall not be a potential hazard or annoyance per Section 4.I of these Covenants.
- h. The identification sign must be installed within 30 days from the date of final completion of the building unless otherwise approved by the Village of Ellsworth.

## 3. Multi-Tenant Buildings.

- a. Unless otherwise approved, there may only be one identification sign per building and the sign shall conform to Section 2, Single Tenant Buildings, above.
- b. Additional signs permitted for identification of individual tenants in a multi-tenant building must be uniform both with regard to sign panel design and lettering style. This sign program must be designed as part of the overall building concept.
- c. All programs for multiple-tenant signage will be strictly regulated and must be approved by the Village of Ellsworth at the time Application Plans are reviewed.

### Informational Signage

#### 1. Definition.

All signs other than identification signs. There is a standard format for informational signage in the Crossing Meadows Business Park. Such signage includes: instructions to

- visitors, vendors and customer; directional signage; designated parking areas; driveway entrance signs or any sign other than the building identification sign described earlier.
2. General Restrictions.
    - a. Informational signage (as defined above) may be double or single face.
    - b. Unless otherwise approved by Declarant or its Designee, informational signs may be constructed in only four sizes (w x h): 12" x 12", 12" x 18", 36" x 18" or 36" x 24".
    - c. The signs that have an 18" dimension or less may be installed by screw mounting on a single metal pole 2½" in diameter. Larger signs shall be installed on two such poles, one at each end of the sign.
    - d. Informational signs shall be no taller than 4'6".
    - e. No informational signs shall be permitted to be installed directly on the building except at overhead truck doors or rear personnel entrance doors, and only when prior approval has been obtained from Declarant or its Designee.
  3. Design Parameters.
    - a. All informational signage and poles will have a permanent finish and have lettering corresponding in color to lettering on property identification signs.
    - b. The maximum letter height on all informational signs shall be 3" and lines shall be spaced no further than 2" apart.
    - c. All lettering on informational signs shall be "flush left".

### Temporary Signage

1. Definition.

Temporary signs are signs placed on the property that are intended to be removed after the specific purpose they have served has been satisfied. Such signs as temporary building identification signs, construction signs, "For Lease" or "For Sale" signs, etc.
2. General Restrictions.
  - a. Construction signs are not permitted to remain standing for more than thirty (30) days following the final completion of a newly constructed building or addition to a building.
  - b. Temporary signs must not remain standing for a period of more than 120 days unless such period is extended by the Declarant or its Designee. The exception shall be signs erected by the Declarant's Designee to market this land development.
  - c. No temporary signs may be mounted on building walls, but instead must be free-standing.
  - d. Temporary signs shall be no larger than 4" x 8".
  - e. Temporary signs for grand openings and special events are not permitted to remain standing for more than thirty (30) days. Repeated placement of temporary signage of similar content is not permitted.