

Document Number

**DECLARATION OF PRIVATE  
ROADWAY/UTILITY EASEMENTS  
VAHTERA HEIGHTS**

Document Name

KNOW ALL PERSONS by these presents that Terrence L. Peters, ("Developer") is owner of the real estate development known as Vahtera Heights, which has been subdivided, and

WHEREAS, Vahtera Heights currently consists of buildable Lots 1 through 8 inclusive, Outlot 1, Outlot 2 and the Meadow and clear view easement of the meadow, each of which is depicted on the annexed Exhibit A, and

WHEREAS, Developer has declared the existence of the following lots in the Vahtera Heights Development:

- Lot 1 is legally described on Exhibit B,
- Lot 2 is legally described on Exhibit C,
- Lot 3 is legally described on Exhibit D,
- Lot 4 is legally described on Exhibit E,
- Lot 5 is legally described on Exhibit F,
- Lot 7 is legally described on Exhibit H,
- Lot 8 is legally described on Exhibit I,
- Outlot 1 is legally described on Exhibit J,
- Outlot 2 is legally described on Exhibit K,

Vahtera Heights Drive, Meadow View Lane and Canyon Trail are legally described on Exhibit L, and The Meadow and the Clearview Easement of the Meadow, are legally described on Exhibit M,

WHEREAS, Developer reserves the right to increase the number of buildable lots within Vahtera Heights, on the land described on the annexed Exhibit A by adding Lots numbered 9, 10 and 11,

WHEREAS, only Lots 1 through 11, shall be buildable lots,

WHEREAS, to gain access to Vahtera Heights by road, a person travels in a generally Northerly direction from State Highway 169 on the South on the common access road, a distance of approximately 500 feet, until they reach the first intersection which is the intersection with the road leading to the sand pit owned by Terrence L. Peters, and

WHEREAS, at the first intersection on the common access road, a person can proceed:

- a. Further North on Vahtera Heights Drive, which is part of Outlot 1, or
- b. To the East, on the sandpit road to the sand pit owned by Terrence L. Peters, or
- c. To the West, on Meadow View Lane, which is part of Outlot 2, and

WHEREAS, within Vahtera Heights, motorized vehicles are permitted to operate only on Vahtera Heights Drive, Meadow View Lane and Canyon Trail,

Recording Area

Name and Return Address  
**Attorney Matthew F. Anich**  
**Anich, Wickman & Lindsey, S.C.**  
**220 6<sup>th</sup> Avenue West**  
**PO Box 677**  
**Ashland, WI 54806**

Parcel Identification Number

WHEREAS, also situated in Vahtera Heights are hike, bike and ski trails, each of which is dedicated strictly to non-motorized usage, which are depicted on and legally described on the annexed Exhibit A, and

WHEREAS, Developer also desires to establish private driveways and easements on Parcels 1 through 8 inclusive for the benefit of such parcels and their owners and to establish rules for the repair and maintenance of the access roads including easements for the roads and trails referred to above,

NOW, THEREFORE, Developer declares and establishes as follows:

1. Private Road Access Easements Declared. Developer, as owner, declares that there shall now exist in favor of the owners of each lot which presently exists and in favor of the owners of each parcel or lot which exists in the future, in Vahtera Heights, and appurtenant to each such lot or parcel, a permanent and perpetual, non-exclusive, private road easement for vehicular and pedestrian ingress, egress and access to and from each Parcel to and from State Highway 169.

These easement roads, which are hereby declared and established in Vahtera Heights, are private access easements, which are depicted on the annexed Exhibit A, which is incorporated herein by reference, which is a survey map of Vahtera Heights. Such private access easement roads, which are for motorized and pedestrian use, are 50 feet wide and are named Vahtera Heights Drive, Meadow View Lane and Canyon Trail, and they each are legally described on the annexed Exhibit L.

In addition to each of these three private access easement roads, each hike, bike and ski trail in Vahtera Heights, depicted on Exhibit A, shall be available to be used for hiking, biking and skiing by the owners of each buildable parcel or lot in Vahtera Heights.

2. Cul de Sacs.

A. Developer, as owner, declares that there shall now exist for the benefit of the owners of each of Parcels 1, 2, 3 and 4 and appurtenant to each such parcel, a permanent and perpetual, cul de sac easement for vehicular and pedestrian use, which is situated in Vahtera Heights, which is adjacent to and abuts Parcels 1, 2 and 3 and which is crossed traveling to and from Parcel 4 as depicted on the annexed A and as described on the annexed Exhibit A.

B. Developer declares Parcels 5 and 6 which are situated at the location depicted on the annexed Exhibit A shall have access to and from State Highway 169 via Canyon Trail and Vahtera Heights Drive as depicted on such Exhibit A.

C. Developer declares that there shall exist for the benefit of each of Parcels 7 and 8, a cul de sac referred to as the Meadow View cul de sac which cul de sac easement shall be for vehicular and pedestrian use which is adjacent to and abuts Parcels 7 and 8 as depicted on the annexed Exhibit A.

3. Utility Easement Declared. Developer hereby declares that there shall now exist in favor of the owner of Parcels 1 through 8 inclusive and appurtenant to each such parcel, over, across, under and upon such parcels, a permanent and perpetual, non-exclusive easement for utility purposes including but not limited to: electricity,

telephone, cable T.V., fiber optics and other utilities servicing each of such eight lots. The easement which is hereby created and imposed shall run along the boundary lines, and as needed, under, Vahtera Heights Drive, Meadow View Lane and Canyon Trail, which are depicted on Exhibit A and legally described on Exhibit L. Such utilities shall be installed underground unless it is impossible to do so. In the event the developer ever exercises its reserved right to increase the number of buildable lots or parcels in Vahtera Heights, the Utility Easements declared in this Provision will be extended to benefit each such additional new buildable lot or parcel.

4. Utility Boxes. There is hereby declared and established a utility easement providing for the following above ground utility boxes:

- a. A utility box near the boundary line common to Parcels 1 and 2, which is for the use and benefit of Parcels 1 and 2, and
- b. A utility box near a boundary line of Parcel 3, which is for the use and benefit of Parcel 3.
- c. A utility box near the East boundary line of Parcel 4, which is for the use and benefit of Parcel 4.
- d. Any future utility boxes for parcels 5, 6, 7 and 8, will be placed in a location directed by Bayfield Electric, or its successor, as close as is reasonably practicable to the parcel building site.

5. Private Driveways Declared. Developer hereby declares and establishes the existence of the following four private driveways which have already been installed by the Developer:

- a. A private driveway on Parcel 1 running from the Vahtera Heights Drive cul de sac to the building zone on Parcel 1, which shall benefit only Parcel 1 and be appurtenant to Parcel 1.
- b. A private driveway on Parcel 2 running from the Vahtera Heights Drive cul de sac to the building zone on Parcel 2, which shall benefit only Parcel 2 and be appurtenant to Parcel 2, and
- c. A private driveway on Parcel 3 running from the Vahtera Heights Drive cul de sac to the building zone on Parcel 3, which shall benefit only Parcel 3 and be appurtenant to Parcel 3, and
- d. A private driveway running from the North edge of Vahtera Heights Drive cul de sac and proceeding to the South boundary of Parcel 4 and continuing on to the building zone on Parcel 4, which shall benefit only Parcel 4 and be appurtenant to Parcel 4.
- e. A private driveway which begins and commences at a point where Vahtera Heights Drive abuts Parcel 5, East of the Vahtera Heights Drive cul de sac and then first proceeds in a generally northerly direction on Parcel 5 and then continues northeasterly to the building zone on Parcel 5 and then continues East on Parcel 5 to the West side of Parcel 6, where the driveway continues on Parcel 6 until it reaches the building zone on parcel 6. This private driveway shall benefit and be appurtenant to both parcels 5 and 6. Parcel 6 is hereby granted a permanent and perpetual driveway easement over and across the driveway

which is situated on Parcel 5 for the benefit of parcel 6. The owners of Parcels 5 and 6 shall share equally the obligation of maintaining this driveway which serves and benefits both Parcels 5 and 6.

- f. A private driveway on Parcel 7 running from either the North side of Meadow View Lane or the Meadow View Lane cul de sac, to the building zone on Parcel 7, which shall benefit only Parcel 7 and be appurtenant to Parcel 7.
- g. A private driveway on Parcel 8 running from the Meadow View Lane cul de sac to the building zone on Parcel 8, which shall benefit only Parcel 8 and be appurtenant to Parcel 8.

To preserve the integrity of the parcels in the Vahtera Heights Development and to avoid excess cutting of trees upon Parcels 1, 2, 3, 4, 5, 6, 7 and 8 each such property owner shall maintain a private driveway on their parcel serving their respective building zone only at the approximate location on that parcel which is depicted on the annexed Exhibit A.

#### 6. Owner's Responsibility to pay for the cost of Road Work.

A. The owner of a buildable lot or parcel of land in Vahtera Heights is responsible for paying their proportionate share of the cost of road work on roads which lead to and from their lot or parcel of land, from State Highway 169.

B. The owner of each parcel of real estate situated in the 40 (as defined herein) which utilizes the common access road for ingress to or egress from their parcel of real estate shall pay their proportionate share of the cost of road work which the common access road needs, whether or not such parcel of real estate is a part of Vahtera Heights.

However, in the event the owner or contractor, guest or invitee of an owner, of any land in the 40, ever causes any damage to a road situated in Vahtera Heights, that owner shall promptly, at that owner's sole expense, repair such damage, returning the road surface to at least as good a condition as it was, prior to such damage occurring.

C. When used herein, "Common access road" shall mean and refer to that stretch of the existing private road which runs from the North boundary line of State Highway 169 in a generally Northerly direction, a distance of approximately 500 feet until it terminates, at the first intersection, which is the point where the common access road intersects with the road leading to the East to the existing sand pit in the Southeast Quarter of Southeast Quarter (SE1/4 SE1/4), Section Twenty (20), Township Forty-five (45) North, Range Two (2) West, Town of Morse, Ashland County, Wisconsin, which sand pit is currently owned by Terrence L. Peters.

D. When used herein "the 40" shall mean and refer to the portion of the Southeast Quarter of Southeast Quarter, Section Twenty (20), Township Forty-five (45) North, Range Two (2) West, Town of Morse, Ashland County, Wisconsin, which is within the Vahtera Heights Development, which is owned by Terrence L. Peters.

E. The owners of Parcels 1, 2, 3, 4, 5 and 6 in Vahtera Heights, when not owned by the developer shall share equally in paying for the cost of road work on that stretch of Vahtera Heights Drive which begins on the South at the intersection of Vahtera Heights Drive with the road leading East to the sand pit now owned by Terrence L. Peters and West to Meadow View Lane and continues in a generally Northerly direction until it reaches the Vahtera Heights Drive cul de sac which is adjacent to Lots 1, 2 and 3 depicted on the attached Vahtera Heights map labeled Exhibit A.

F. The owner of Parcel 4 in Vahtera Heights shall be responsible for payment of the cost of any road work on the stretch of the private access road easement which commences at the North boundary line of the Vahtera Heights Drive cul de sac and which terminates at the South boundary line of Parcel 4 in Vahtera Heights

G. The owners of Parcels of 5 and 6 in Vahtera Heights shall be responsible for payment of the cost of roadwork on the private access road easement which is named Canyon Trail which commences near the Vahtera Heights Drive cul de sac and then proceeds in a generally Northerly direction on Lot 5 and turns East and proceeds to the boundary line of Lot 6 as depicted on Exhibit A.

H. The owners of Parcels 7 and 8 in Vahtera Heights, when not owned by the developer, shall equally share in paying for the cost of roadwork on Meadow View Lane, which is depicted on the Vahtera Heights Map of Survey labeled Exhibit A.

I. The owners of Lots 5 and 6 in Vahtera Heights, when not owned by the Developer, shall pay the lots proportionate share of the cost of road work on each stretch of road in Vahtera Heights which serve such lots.

J. The parcels of land situated in the Southeast corner of the 40, East of the common access road, which are not a part of the Vahtera Heights subdivision are hereby granted a permanent and perpetual, non-exclusive roadway easement, for purposes of ingress and egress, over and across the common access road leading to and from State Highway 169. This easement shall run with the land and be appurtenant to the parcels of land in the Southeast corner of the 40.

The owners of parcels of land in the Southeast corner of the 40, situated East of the common access road, shall be responsible for payment of all of the cost of any roadwork on the access road which runs in a generally West-East direction from the common access road to the parcels of land situated in the Southeast corner of the 40, situated East of the common access road.

K. The parcel of land which contains the sand pit, which consists of approximately 12 acres, situated on the East side of the 40, which is not a part of the Vahtera Heights subdivision, is hereby granted a permanent and perpetual non-exclusive roadway easement for purposes of ingress and egress over and across the common access road leading to and from State Highway 169. This easement shall run with the land and be appurtenant to this approximately 12\* acres of land. In the event this 12 acres of land is ever subdivided, each subdivided parcel shall equally share this non-exclusive easement.

L. While the existing sand pit, which consists of approximately 12 acres of land on the East side of the 40, remains a sand pit, it shall count as one buildable lot, when calculating its proportionate share of the cost of roadwork on the common access road.

However, if such 12 acre of parcel of land is ever subdivided into two or more buildable lots, upon that event occurring, each of such buildable lots which then exists shall immediately begin to pay, along with the other users of the common access road, its proportionate share of the cost of roadwork on the common access road.

M. Lot 1 of Ashland County CSM No. 551 which consists of 2.51 acres of land is situated in the Southeast corner of the 40. It is not a part of the Vahtera Heights subdivision. Lot 1 of CSM 551 is now accessed via State Highway 169 and does not use the common access road. As long as Lot 1 of CSM 551 does not use the common access road, the owner of such lot need not pay a share of the cost of road work on the

cost of road work on the common access road. However, if the situation ever changes so that Lot 1 of CSM 551 begins to use the common access road, then the owner of Lot 1 of CSM 551 shall then immediately begin to pay its proportionate share of the cost of road work on the common access road.

N. A new Certified Survey Map is being created which will be situated North of and adjacent to Lot 1 of Ashland County CSM No. 551 which new lot will be accessed via the common access road even though it is not a part of the Vahtera Heights subdivision. This new lot, which will abut Lot 1 of CSM 551 will consist of approximately 2.21 acres of land. When this new lot consists of one building site, or when it contains only one single family residence, it shall count as one lot when paying its proportionate share of the cost of road work on the common access road. If this new lot ever contains more than one single family residence, the owner of each single-family residence on the new lot shall immediately begin to pay its proportionate share of the cost of road work on the common access road.

O. While the parcel or parcels of land situated in the Southeast corner of the 40, East of the common access road, which are not a part of the Vahtera Heights subdivision, contain a single dwelling or residence, it shall count as one buildable lot when paying its proportionate share of the cost of roadwork on the common access road.

However, each parcel of land in the Southeast corner of the 40 that ever consists of more than one buildable lot or contain more than one single dwelling or residence, each such buildable lot or dwelling or residence shall immediately begin paying its proportionate share of the cost of roadwork on the common access road.

P. The right of each owner of a lot or parcel of land situated in the 40 to exercise an easement for ingress or egress over and across the common access road or any other road situated in Vahtera Heights, is conditioned upon that owner being current in paying for their proportionate share of the cost of roadwork on each stretch of road used to access their lot or parcel of land in the 40.

#### 7. Notice of Proposed Road Work.

- a. If an owner of a parcel of land in the Vahtera Heights Development is of the opinion that any portion of the access road utilized by that owner is in need of road work, that owner shall serve a written notice of proposed road work on each owner who is responsible for any of the cost of the road work as set forth in Provision 6 of this document. Said notice shall either be by certified mail, return receipt requested or in person unless receipt of the notice is acknowledged by the recipient. The notice of proposed road work shall contain the following information:
  - i. A brief summary or statement of the proposed road work and exactly where the road will be improved;
  - ii. The estimated cost of the road work;
  - iii. The name and address of the sender of the notice of proposed road work;
  - iv. A statement if the sender of such notice of proposed road work does not receive a written objection to the proposed road work within twenty-one days of receipt of the notice, that such owner will be presumed to have consented to the proposed road work.

- b. If one title holder of a parcel is notified, all title holders of that parcel shall be deemed to have been notified. When one title holder is notified or deemed notified, that notice applies to all parcels owned by that title holder.
- c. An owner of a parcel shall be deemed to have the address reflected on the Ashland County Tax Records.

8. No Objection to Proposed Road Work. If a sender of a notice of proposed road work ("Sender") does not receive any written objection to the proposed road work, then the sender shall be authorized and empowered to cause such road work to be performed up to a maximum amount of the estimated cost of such road work, as set forth in the notice of proposed road work. Any road work that is so authorized must be commenced within six months of such road work being authorized. Failure to serve the sender with a timely written objection is considered an approval of the proposed road work.

#### 9. Objection to Proposed Road Work.

- a. An owner of a parcel in the Vahtera Heights Development who objects to the proposed road work must serve a written objection on the server by certified mail, return receipt requested or personally.
- b. If an owner serves written objection to the proposed road work, the owner shall attempt to reach agreement on the proposed road work. If no agreement is reached within sixty days of the date the first written objection is served on the sender, the sender may submit the issue to a neutral arbitrator who shall make a decision regarding the proposed road work. When a neutral arbitrator is required to determine what, if any, road work is required, the arbitrator shall set forth his or her decision in writing and such decision shall be binding; provided, however, the arbitrator's decision may not require the expenditure of more money than the estimate provided with the notice of proposed road work, The arbitrator's decision may be enforced in the Ashland County Circuit Court.

#### 10. Cost of Road Work.

- a. If there is no objection to the proposed road work, or in the event that an arbitrator issues a written decision calling for the road work to be performed, the sender shall notify each owner in writing by regular mail or personally that the road work has been approved.
- b. The cost of the roadwork shall be divided as set forth in Provision 6 above.
- c. Each owner shall pay his or her proportionate share of the roadwork within thirty days of the date the owner receives notice of the proposed roadwork has been approved.
- d. The sender, on behalf of the owners, may commence suit in Ashland County Circuit Court against any owner who fails to pay his proportionate share. Each owner by accepting a deed for a parcel, submits to the jurisdiction of the Ashland County Circuit Court. Any amount owned by an owner for road work shall constitute a lien on the Owner's parcel. Sender is authorized, on behalf of the owners, to file a notice of lien in the Register of Deeds Office and to commence an action to foreclose any lien. The sender shall be entitled to recover all costs, including reasonable attorney fees, incurred in collecting an owner's share of the road work and such costs shall also be a lien on such owner's parcel. Said lien shall be subordinate to the lien of any mortgage secured by a parcel.

11. Alternate Procedure. Nothing herein contained shall prevent the owners from using a different procedure to reach agreement to perform proposed road work; provided that all owners consent to the proposed road work an owner or owners are also authorized to maintain and repair that portion of the access roads adjacent to their parcel or parcels at their own expenditure.

12. Snow Removal. The cost of snowplowing the access road and snow removal shall be shared in the same basis as set forth in Paragraph 6 above.

13. Developer's Share of Costs. Developer, so long as he owns the parcel or parcels, shall be required to pay for his proportionate share of the cost of snowplowing and any approved road work to the access roads. At such time that developer owns no parcel, Developer shall not be responsible for any costs associated with the access roads.

14. Definitions.

- a. Road Work. When used herein, the term "Road Work" shall mean and refer to any of the following activities in regards to the access roads: grading, graveling, ditching, repairing, maintaining, widening, improving and/or reconstructing. Road work shall not include paving with asphalt, concrete or another hard surface unless approved by all affected parcel owners.
- b. Parcel. When used herein, the term "Parcels" shall mean Parcels 1 through 8 inclusive of Vahtera Heights plus any additional lots created in the 40.
- c. Owner. When used herein, the term "Owner" shall mean the person, persons or entity named on the Ashland County tax roll for that parcel, notwithstanding the fact that the titleholder of the parcel is different. For the purposes of this Agreement, each parcel has only one owner no matter how many persons or entities are named on the tax roll or hold title to the parcel, if an owner owns more than one parcel, such owner shall be considered a separate owner for each parcel owned.

15. Miscellaneous.

- a. Recording. This document may be recorded.
- b. Amendments. All amendments, additions and modifications to this Agreement must be in writing and agreed to by three-fourths of the parcel owners.
- c. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the owners and their successors and assigns.

16. Exhibits. The attached Exhibits A through M, inclusive, are incorporated herein by reference, as a part of this instrument.

17. This Declaration shall be permanent and perpetual with its terms and provisions to run with the land and be appurtenant to each lot in Vahtera Heights.

18. Limited Liability. Neither the developer nor its employees or contractors shall be liable or responsible for any death, injury, damage, loss, costs, fee, charge or expense associated with, related to, or arising from any act, omission or occurrence happening upon the developer's property, in connection with any logging activities, construction projects or work of improvement, unless the resulting harm was directly caused by a malicious act of the developer, its employee, or its contractor.



