

**DEED RESTRICTION**

Document Number

**Legal Description:**

This Declaration of Restrictions regards land in Manitowoc County, Wisconsin, Legally described as follows:

**BOUNDARY DESCRIPTION**

ALL OF THE SW 1/4 OF THE NW 1/4, AND PART OF THE SE 1/4 OF THE NW 1/4, ALL IN SECTION 2, TOWNSHIP 18 NORTH, RANGE 23 EAST, MANITOWOC COUNTY, WISCONSIN, BEING MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE WEST 1/4 CORNER OF SAID SECTION 2; THENCE N00°22'40"E, ALONG THE WEST LINE OF SAID NW 1/4 OF SECTION 2, 1320.19 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF THE NW 1/4; THENCE N88°30'29"E, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NW 1/4, 1494.29 FEET; THENCE S00°36'42"W, 759.51 FEET; THENCE N88°30'29"E, 1106.73 FEET TO THE WEST RIGHT-OF-WAY LINE OF HECKER ROAD; THENCE S00°51'15"W, ALONG SAID RIGHT-OF-WAY LINE, BEING 40 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF THE NW 1/4 OF SAID SECTION 2, 521.79 FEET TO AN ANGLE POINT IN SAID RIGHT-OF-WAY LINE; THENCE S00°49'25"W, ALONG SAID WEST RIGHT-OF-WAY LINE, 2.19 FEET TO THE SOUTH LINE OF SAID NW 1/4 OF SECTION 2; THENCE S87°41'32"W, ALONG SAID SOUTH LINE, 2595.04 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION; CONTAINING 2,539,874 SQ. FT., OR 58.307 ACRES.

City Clerk  
City of Manitowoc,  
900 Quay Street  
Manitowoc, WI 54220

052-000-111-100.00  
Parcel Identification Number (PIN)

WHEREAS, the City of Manitowoc, is the owner of the above-described property.

WHEREAS, the property owner is coordinating cleanup of environmental contamination with the Wisconsin Department of Natural Resources (WDNR), and the cleanup is being tracked under the Bureau for Remediation and Redevelopment Tracking System (BRRTS) on the Web database as the "Manitowoc City / Former Newton Tn Gravel Pit, BRRTS #02-36-000268."

WHEREAS, one or more petroleum compounds, chlorinated solvents, and polychlorinated biphenyls (PCBs) discharges have occurred on this property, and as of April 1993 when soil samples were collected on this property, petroleum compounds, chlorinated solvents, and PCBs contaminated soil remained on this Property at the following location: Western Source Area (under the Engineered Cap Area). See attached EXHIBITS A & B for figure of Engineered Cap Area.

WHEREAS, it is the desire and intention of the property owner to impose on the property restrictions to facilitate site regulatory closure. That the property deed restrictions specifically apply to the engineered cover over the contaminated soil within the portion of the Property noted as the Western Source Area as described in the Engineered Cap description below and shown on Exhibits A & B.

ENGINEERED CAP DESCRIPTION:

ALL LOCATED IN THE SW 1/4 OF THE NW 1/4 OF SECTION 2, TOWNSHIP 18 NORTH, RANGE 23 EAST, MANITOWOC COUNTY, WISCONSIN, BEING MORE PARTICULARLY DESCRIBED AS:

BEGINNING AT THE WEST 1/4 CORNER OF SAID SECTION 2; THENCE N00°22'40"E, ALONG THE WEST LINE OF SAID NW 1/4 OF SECTION 2, 227.67 TO THE POINT OF BEGINNING; THENCE CONTINUING N00°22'40"E ALONG THE WEST LINE OF SAID NW 1/4 OF SECTION 2, 277.23 FEET TO A POINT; THENCE S89°58'17"E, A DISTANCE OF 222.42 FEET; THENCE S00°01'43"W, A DISTANCE OF 219.25 FEET; THENCE S41°01'00"W, A DISTANCE OF 79.54 FEET; THENCE N89°16'54"W, A DISTANCE OF 171.95 FEET TO THE POINT OF BEGINNING AND THE END OF THIS DESCRIPTION; CONTAINING 60,613 SQ. FT., OR 1.391 ACRES.

NOW THEREFORE, the owner hereby declares that the Engineered Cap over the Western Source Area of the property described above is held and shall be held, conveyed or encumbered, leased, rented, used, occupied, and improved subject to the following limitation and restrictions.

The Engineered Cap that existed on the above described property on the date that this restriction was signed forms a barrier that must be maintained in order to minimize the infiltration of water and prevent additional groundwater contamination that would violate the groundwater quality standards in Ch. NR 140, Wis. Adm. Code, and to prevent direct contact with residual soil contamination that might otherwise pose a threat to human health.

Certain activities related to the Engineered Cap are prohibited (1) Removing the existing barrier or cover; (2) Replacing with another barrier; (3) Excavating or grading of the land surface; (4) Filling on covered or paved areas; (5) Plowing for agricultural cultivation; (6) Constructing or placing a building or other structure in an area where a soil cover or other barrier is required; and (7) Changing the use or occupancy of the property to a residential exposure setting, which may include certain uses, such as a single or multiple family residences, a school, day care, senior center, hospital, or similar residential exposure setting.).

The required cap shall be maintained on the above-described property in the locations shown on the attached map EXHIBITS A & B, labeled "Engineered Cap" unless another barrier that reduces infiltration to the greatest extent practicable or provides an infiltration rate equivalent to the landfill cap design requirements ins. NR 504.07, Wis. Adm. Code (March 2003)1 is installed and maintained in its place. The existing cap, and any replacement barrier, shall be maintained on the above-described property in compliance with the "WESTERN SOURCE AREA CAP MAINTENANCE PLAN" dated June 2025, that was submitted to the Wisconsin Department of Natural Resources by City of Manitowoc, as required by section NR 724.13 (2), Wis. Adm. Code (October 1999).

All continuing obligations for the site are established in the BRRTS on the Web database.

This deed restriction is also made under Federal Law 40 CFR 761.61(a)(8)(i)(A) to notify any potential purchaser of the property: (1) That the engineering cover area has been used for PCB remediation waste disposal and is restricted to use as a low occupancy area as defined in 40 CFR 761.3, (2) Of the existence of a cap as defined in 40 CFR 761.61(a)(7) and requirements to maintain the cap, and (3) That contamination meeting and exceeding applicable clean-up levels in 40 CFR 761.61(a)(4)(B)(3) remains at the site and/or under the direct contact cover system.

Restrictions can be removed if WDNR and United States Environmental Protection Agency (US EPA) determine that the risk no longer exists, or additional actions are taken (40 CFR 761.61(a)(8)(ii)).

Any person who is or becomes owner of the property described above may request that the WDNR or its successor issue a determination that one or more of the restrictions set forth in this covenant are no longer required. Upon the receipt of such a request, the WDNR shall determine whether or not the restrictions contained herein can be extinguished. If the WDNR determines that the restrictions can be extinguished, and affidavit, attached to a copy of the WDNR's written determination, may be recorded by the property owner or other interested party to give notice that his deed restriction, or portions of this deed restriction, are no longer binding.

[Signature Page to Follow]

Effective this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**CITY OF MANITOWOC, a Wisconsin Municipal Corporation**

By: \_\_\_\_\_  
Justin M. Nickels, Mayor

By: \_\_\_\_\_  
Mackenzie Reed, City Clerk/Deputy Treasurer

STATE OF WISCONSIN )  
 ) ss.  
MANITOWOC COUNTY)

Personally, came before me, this \_\_\_\_\_ day of \_\_\_\_\_, 2025, the above-named Justin M. Nickels, Mayor and Mackenzie Reed, City Clerk/Deputy Treasurer to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Notary Public \_\_\_\_\_ County, \_\_\_\_\_  
My commission (expires)(is) \_\_\_\_\_  
Filed by authorization of the City of Manitowoc

This document was drafted by Eric G. Nycz, City Attorney