

THIS LIMITING DISTANCE AGREEMENT DATED this day of _____, 2023.

B E T W E E N:

**WEST RIDGE ON THE LAKE
INC.**

(hereinafter called the "Owner")

- and -

**MUNICIPALITY OF
KINCARDINE**

(hereinafter called the
"Municipality")

WHEREAS the Owner is the registered owner of the lands and premises known municipally as 61 Inverness St. North, Kincardine and legally described in Schedule "A" (hereinafter called the "Schedule A Lands");

AND WHEREAS the Municipality is the registered owner of the lands and premises known municipally as PLAN 3M259 BLK 49 and legally described in Schedule "B" (hereinafter called the "Schedule B Lands");

AND WHEREAS the lands described in Schedules "A" and "B" (hereinafter collectively called the "Schedule A and B Lands") either abut each other and share a common boundary line;

AND WHEREAS the Building Code Act, 1992, S.O. 1992, Chapter 23, as amended, (the "Act") and Subsection 9.10.15., Division B of Regulation 332/12 (collectively referred to as the "Building Code") require buildings to meet certain spatial requirements between a building and the property line or between the building and the centre line of an adjacent street or alley, as the case may be (hereinafter called the "Spatial Line");

AND WHEREAS a building's spatial separation requirements are determined by provisions of the Building Code regarding the size of an unprotected opening in an exposing building face and the available limiting distance to the Spatial Line;

AND WHEREAS a building erected on the Schedule A Lands has an unprotected opening in an exposing building face which is unable to meet the requirements of the Building Code with respect to the minimum limiting distance of 4.0 metres to the property line as there is only 1.25 metres of limiting distance between the exposing building face of the said building wall and the property line boundary with the Schedule B Lands;

AND WHEREAS Sentences (4) and (5) of Article 9.10.15.2., Division B in Regulation 332/12 of the Building Code permits the limiting distance for an exposed building face to be measured to a point beyond the property line where the owners of the properties on which the limiting distance is measured enter into an agreement (hereinafter called a "Limiting Distance Agreement");

AND WHEREAS the Owner has requested that the Municipality enter into a Limiting Distance Agreement with respect to the Schedule A and B Lands;

AND WHEREAS the Municipality wishes to ensure that no building or structure will be erected on the Schedule B Lands within the 4.0 metres of the common property line between the Schedule A and B Lands;

NOW THEREFORE in mutual consideration of the entering into of this Agreement and of the benefit of the covenants and agreements herein contained the parties covenant and agree as follows:

1. The parties hereto confirm that the recitals in this Agreement are true and accurate.
2. This Agreement is entered into for the specific purpose of enabling the building erected on the Schedule A Lands to comply with the minimum limiting distance requirements set out in the Building Code (the "Limiting Distance Requirement").
3. The Limiting Distance Requirement for the building located within the Schedule A Lands is illustrated in Schedule C and shall be permitted to be measured to a point beyond the Schedule A Lands to a line located on the Schedule B Lands known as the deemed Spatial Line.

The limiting distance shall be comprised of:

- (a) 1.25 metres within the Schedule A Lands;
- (b) N/A metres of adjacent alley lands (if any); and
- (c) 4.0 metres of the adjacent Schedule B Lands; (the "Limiting Distance").

and by declaring that the Limiting Distance Requirement for the exposing building face of the Schedule A Lands' building and for the purposes of other buildings which may subsequently be erected upon the Schedule B Lands, no residential building shall be erected on the Schedule B Lands any closer than 4.0 metres to the common property line between the Schedule A and B lands.

4. (a) The Municipality covenants that, for the benefit of the Schedule A Lands, it will not construct a building on the Schedule B Lands unless the Limiting Distance Requirement is complied with in accordance with this Agreement.

(b) The Owner covenants that, for the benefit of the Schedule B Lands, it will not construct a building on the Schedule A Lands unless the Limiting Distance Requirement is complied with in accordance with this Agreement.
5. The covenants set out herein are intended to run with the Schedule A and B Lands and shall be binding on the Parties and their respective heirs, executors, administrators, successors, and assigns.
6. This Agreement shall be registered by the Municipality on title to the Schedule A and B Lands at the Owner's expense. The Parties agree to such registration and to execute such documents as may be necessary for such purpose.
7. This Agreement shall not be amended or deleted from title to the Schedule A and B Lands without the consent in writing of the Municipality.
8. The Owner shall have no further interest arising under this Agreement in the Schedule B Lands except as specifically set forth in this Agreement.

9. The Schedules attached to and forming part of this Agreement are as follows:

- | | | |
|--------------|---|--|
| Schedule "A" | - | Legal Description of Owner's Land |
| Schedule "B" | - | Legal Description of Municipal land |
| Schedule "C" | - | Plan or Drawing of Schedule A land showing the Limiting Distance Requirement |

10. The Owner acknowledges and agrees that the Municipality enters into this Agreement solely for the purpose of the above-noted Limiting Distance provisions of the Building Code and for no other purpose.

11. Notices may be delivered, faxed or sent by registered mail as follows:

To the Owner:

West Ridge on the Lake Inc.
c/o Angelo Orsi
P.O. Box 2088
Orillia, Ontario
L3V 0Y7

To the Municipality:

The Corporation of the Municipality of Kincardine
Attention: Chief Building Official
1475 Concession 5, R.R.#5
Kincardine, ON
N2Z 2X6

12. (a) The Owner agrees to indemnify, save, defend and keep harmless from time to time and at all times, the Municipality of, from, and against all actions, causes of action, interest, claims, demands, costs, charges, damages, expenses and loss which the Municipality may at any time bear, incur, be liable for, sustain or be put into for any reason on account of or by reason of or in consequence of the Municipality agreeing to and entering into this Agreement.
- (b) The Owner assumes all risks associated with or arising as a result of this Agreement.
- (c) This indemnification shall, in respect of any matter arising prior to the termination of this Agreement, remain in force following termination of this Agreement.
13. This Agreement contains the entire agreement between the Parties and there are no representations, warranties, collateral agreements, or conditions of any nature affecting this Agreement except as expressly stated herein.
14. This Agreement shall ensure to the benefit of, and be binding upon, the Parties hereto and their respective successors and assigns.
15. The parties hereby agree to execute such further documents and take such further actions that may be required to carry out the intent and purpose of this Agreement including without limitation the execution of any documents required to register this Agreement on the Schedule A and B Lands.

IN WITNESS WHEREOF the parties have duly executed this Agreement.
In the presence of:

WEST RIDGE ON THE LAKE INC.

Per: _____
Name: Angelo Orsi
Title: President – West Ridge on the Lake Inc.

I have authority to bind the Corporation

**THE CORPORATION OF THE MUNICIPALITY
OF KINCARDINE**

Per: _____
Name: Kenneth Craig
Title: Mayor

I have the authority to bind the Corporation

Per: _____
Name: Jennifer Lawrie
Title: Clerk

I have the authority to bind the Corporation

Schedule A

Legal Description of Owner's Land

Registered to the "Owner", these lands and premises are legally described as:

LOT 8, PLAN 3M259; MUNICIPALITY OF KINCARDINE

PIN 33303-0908 (LT)

Schedule B

Legal Description of Municipal Land

Registered to the "Municipality", these lands and premises are legally described as:

BLOCK 49, PLAN 3M259; SUBJECT TO AN EASEMENT AS IN R386481 BR140673; SUBJECT TO AN EASEMENT AS IN R364356 BR140062; SUBJECT TO AN EASEMENT AS IN R389142 BR140063; SUBJECT TO AN EASEMENT AS IN R32268 BY150420; SUBJECT TO AN EASEMENT AS IN R189837 BR140061; SUBJECT TO AN EASEMENT AS IN KN17093 BR167680; SUBJECT TO AN EASEMENT AS IN BR165724; SUBJECT TO AN EASEMENT AS IN BR165725; SUBJECT TO AN EASEMENT AS IN BR165726; SUBJECT TO AN EASEMENT AS IN BR165727; SUBJECT TO AN EASEMENT AS IN BR165729; SUBJECT TO AN EASEMENT AS IN R400051; MUNICIPALITY OF KINCARDINE

PIN 33303-0949 (LT)

Schedule C

Plan or Drawing of Schedule A Lands

(Plan or Drawing to show limiting distances)

