



Declaration of deed restriction

The State building code sets rules for the minimum distance between buildings. The code also requires that buildings be constructed within the boundaries of a parcel, and prohibits building across property lines.

The City's zoning ordinance classifies certain buildings as "accessory" buildings (such as a garage serving a house). The zoning ordinance requires that "accessory" buildings be built on the same lot as the "principal" building it serves.

City ordinances require that storm water runoff be contained within the boundaries of a parcel.

When a project does not meet these requirements, a plan examiner may, in some circumstances, give a customer the option of obtaining a deed restriction on an adjacent property. The deed restriction must be registered with the Milwaukee County Register of Deeds.

The deed restriction, which will show up on a title search for the property, limits the development of the adjacent property in some manner. For example, let's say you want to construct a building only 8 feet from your property line, but the building code requires a minimum of 10 feet between buildings. In this situation, the deed restriction would restrict the owner of the property on the adjacent property from building anything within 2 feet of his or her property line. This would satisfy the intent of the building code.

If the two adjacent properties have different owners, the permit applicant must negotiate

the deed restriction with the owner of the second property. The permit applicant must show evidence, such as a legal document or a receipt, that the deed restriction has been registered with Milwaukee County.

The exact wording for the deed restriction depends on the situation. Three examples follow.

Deed restriction when a building is too close to the property line

Deed restriction is filed for the property adjacent to the property for which a permit is sought

The undersigned, X and X, are the owners of the parcel of real estate described as follows:

PARCEL 1: *INSERT LEGAL DESCRIPTION OF ADJACENT PROPERTY HERE*

Declarants make this Declaration of Deed Restriction solely for the purpose of ensuring compliance with zoning ordinances and building code requirements of the City of Milwaukee. The owner of the property described below intends to construct a building closer to the property line than the building code allows:

PARCEL 2: *INSERT LEGAL DESCRIPTION OF PROPERTY FOR WHICH PERMIT IS SOUGHT HERE*

NOW, THEREFORE, Declarants hereby declare a restriction on the development of Parcel 1 as follows: No building shall be constructed within insert distance of the property line shared with Parcel 2, without first obtaining written consent therefore from the City of Milwaukee.

This restriction shall run to and be enforceable by the City of Milwaukee.

This restriction shall run with the land and shall be enforceable against the Declarants, their heirs, successors, agents and assigns.

Deed restriction when storm water from one parcel must run across another parcel

Deed restriction is filed for the property adjacent to the property for which a permit is sought

The undersigned, X and X, are the owners of the parcel of real estate described as follows:
PARCEL 1: *INSERT LEGAL DESCRIPTION OF ADJACENT PROPERTY HERE*

Declarants make this Declaration of Deed Restriction solely for the purpose of ensuring compliance with zoning ordinances and building code requirements of the City of Milwaukee. The owner of the property described below intends to discharge storm water across Parcel 1:
PARCEL 2: *INSERT LEGAL DESCRIPTION OF PROPERTY FOR WHICH PERMIT IS SOUGHT HERE*

NOW, THEREFORE, Declarants hereby declare a restriction on the Parcel 1 as follows: Storm water emanating from Parcel 2 shall be allowed to flow across Parcel 1 en route to a storm sewer inlet.

This restriction shall run to and be enforceable by the City of Milwaukee.

This restriction shall run with the land and shall be enforceable against the Declarants, their heirs, successors, agents and assigns.

Deed restriction when an owner wishes to build an accessory building on one parcel and the principal building is located on an adjacent parcel, both parcels having the same owner

Deed restriction affects both parcels

The undersigned, X and X, are the owners of the following two parcel of real estate described as follows:

PARCEL 1: *INSERT LEGAL DESCRIPTION OF FIRST PROPERTY HERE*

PARCEL 2: *INSERT LEGAL DESCRIPTION OF SECOND PROPERTY HERE*

Declarants make this Declaration of Deed Restriction solely for the purpose of ensuring compliance with zoning ordinances and building code requirements of the City of Milwaukee. The declarants intend to use the two parcels, as in conjunction with the other, as though they were in fact one parcel of real estate, intending to erect *insert building to be constructed on indicate parcel on which building is to be built.*

NOW, THEREFORE, Declarants hereby declare a restriction on the conveyance of parcels of real property hereinabove described, such that Declarants shall not convey either parcel of real estate separate from the other, without first obtaining written consent therefore from the City of Milwaukee.

This restriction shall run to and be enforceable by the City of Milwaukee.

This restriction shall run with the land and shall be enforceable against the Declarants, their heirs, successors, agents and assigns.