

THIS DECLARATION, made this 21st day of November 1979, by THOMAS J. THOMSON, RICHARD B. CASPER, and BAY SERVICE CORPORATION, doing business as HUNTINGTON PARK JOINT VENTURE, (the "Developer").

The Developer now owns certain lands in the City of Mequon, (the "City"), which have been platted as "HUNTINGTON PARK EAST" (the "Subdivision"). Developer desires to subject the Subdivision to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, which shall inure to the benefit of and pass with said property and each and every parcel thereof and shall apply to and bind the successors in interest, and any owner thereof.

Developer recorded a Declaration of Restrictions for Huntington Park No. 3 in the office of the Register of Deeds for Ozaukee County in May, 1978 on Reel 418, Pages 579 - 585 as Document No. 301633 as an Exhibit to a Subdivider's Agreement between the City and Developer in anticipation of the recording of the plat thereof. The plat was actually entitled HUNTINGTON PARK EAST and was recorded on November 7, 1979, on volume "U" Pages 16 as Document No. 315980. Developer now desires that the declaration described above shall be of no effect and that this declaration shall subject the Subdivision to the restrictions contained herein.

NOW, THEREFOR, Developer declares that the Subdivision shall be used, held, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth, which shall inure to the benefit of and pass with said property and each and every parcel thereof, and shall apply to and bind the successors and any owner thereof.

ARTICLE I

PROPERTY SUBJECT TO THIS DECLARATION

1.1. Property Subject. The following property, including all lots now or hereafter platted thereon, shall be subject to this Declaration:

HUNTINGTON PARK EAST, being a subdivision of a part of the Southwest, Southeast and Northeast one-quarters of Section 32, Town 9 North, Range 21 East, in the City of Mequon, Ozaukee County, Wisconsin.

1.2 Excluded Areas. This Declaration shall not effect the subdivisions in the City of Mequon known as Huntington Park, Huntington Park No. 1 or Huntington Park No. 2, nor shall any restrictions, covenants, trusts or other rules applying to the above subdivisions apply to the Subdivision which is the subject of this Declaration.

ARTICLE II

GENERAL PROVISIONS

2.1 General Purpose. The general purpose of this Declaration is to help assure that the Subdivision and the adjacent property will become and remain an attractive community; to preserve and maintain the natural beauty of the Subdivision and recreational areas within its vicinity; to insure the best use and the most appropriate development and improvement of each building site; to protect owners of building sites against such use of surrounding building sites as will detract from the residential value of their property; to guard against the erection thereon of poorly designed or proportioned structures; to obtain harmonious use of construction materials; to insure the highest and best residential development of said materials and property consistent with the purposes for which it is platted; to encourage and secure the erection of attractive residential structures thereon, with appropriate locations thereof on building sites; to prevent haphazard and nonharmonious improvement of building sites; and to secure and maintain proper spatial relationship of structures to other structures and lot lines.

2.2 Architectural Control. No building or other improvement shall be erected, placed or altered on any lot until the building construction plans and specifications and location shall have been approved in writing by the Architect-ural Control Committee, as hereinafter established by Article III of this Declaration.

2.3 Use. No lot. shall be used other than in compliance with this Declaration.

ARTICLE III

ARCHITECTURAL CONTROL COMMITTEE

3.1 Establishment, Duties, Membership.

(a) There shall be an Architectural Control Committee, which shall have the duty of enforcing the various provisions of this Declaration in accordance with the general purpose of this Declaration, and which shall have the rights and obligations set forth in this Declaration for the Committee and any powers necessary to exercise those rights and to enforce this Declaration. Notwithstanding the foregoing, the Committee may waive, which waiver must be in writing, any of the provisions of Article IT of this Declaration.

(b) The Committee shall consist of at least three (3) members. A majority of the Committee may designate a repre-sentative to act for it, in which case such representative shall have and may exercise

all of the powers of the Committee until such designation has been revoked by a majority of the Committee.

(c) Until such time as the Developer owns fewer than a total of twenty-five (25) lots and/or proposed lots in the Subdivision, the Developer shall have the exclusive right and responsibility to appoint members of the Committee. The Developer hereby appoints the following to be the initial members of the Committee:

- (1) Richard G. Dick
500 w. Brown Deer Road
Milwaukee, Wisconsin 53217

- (2) Dorothy Knapp
10125 w. North Avenue
Milwaukee, Wisconsin 53226

- (3) Richard B. Casper
10125 W. North Avenue
Milwaukee, Wisconsin 53226

- (4) Robert E. Lemmermand
9832 N. Andover Court
Mequon, Wisconsin 53092

In the event of any vacancy Developer shall, within thirty (30) days thereafter, appoint a new member to fill the vacancy on the Committee. If the Developer fails to appoint members to the Committee, the owners of lots subject to this Declaration, by a majority vote, may elect Committee members, not to exceed four (4) in number, from among themselves. Notwithstanding the foregoing provisions, at such time as Developer no longer owns any lots and/or proposed lots in the Subdivision, the Committee members who are appointees of the Developer shall, within thirty (30) days thereafter, resign from the Committee. Thereafter the owners of lots, by majority vote, shall elect the members and fill the vacancies on the Committee from among themselves.

(d) Neither the members of the Committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this Declaration. All members of the Committee, other than appointees of the developer, must own lots subject to this Declaration. The names and addresses of subsequently appointed or elected members shall be listed on a document which is to be recorded in the office of the Register of Deeds for Ozaukee County. The appointment or election shall be in effect as of the time of recording. A member of the Committee may resign by recording a written resignation in the office of the Register of Deeds for Ozaukee County, and such resignation shall be effective on recording. For the purpose of this paragraph, each lot shall constitute a unit having a single vote

3.2 Procedure. A lot owner desiring to improve the lot shall submit to the Committee, for its written approval, four complete sets of building construction plans and specifications, and a plot plan prepared by a registered land surveyor showing the location of all contemplated improvements, the location of all existing buildings on adjacent lots, and existing and proposed elevations referenced to City of Mequon datum. The Committee's approval or rejection shall be in writing and signed by a majority of Committee members or, if one member has been designated as a representative, then by such person. The decision of the Committee shall be final and binding upon all parties. In the event the Committee fails to approve or reject such proposal within thirty (30) days after submission of the plans, specifications and survey, or in any event, if no suit to enjoin the construction has been commenced prior to the completion of construction, approval will be deemed to have been obtained and the applicable covenants in this Declaration shall be deemed to have been complied with.

3.3 Submission to Committee. The items being submitted to the Committee shall specifically include:

- (i) Location and construction detailed for all buildings, structures, fences and walls
- (ii) Proposed facades of any building, including the style, and location of eaves and windows,
- (iii) Description of materials to be used in any building or improvement,
- (iv) Such other material as the Committee may deem necessary.

All structures shall be designed by a registered architect, a professional engineer experienced in home design, or an equally qualified individual or firm.

3.4 Standards. The Committee shall have the right to reject any plans or specifications which, in the judgment and sole opinion of a majority of its members, or the representative of the Committee:

- (a) are not in conformity with the restrictions in Article IV; or
- (b) are not desirable for aesthetic reasons; or
- (c) are not in harmony with the surrounding lots; or
- (d) are unsuitable with regard to the proposed structure or improvement, design, grade, materials or other proposed matter; or
- (e) are not in conformity with the general purposes of this Declaration.

3.5 Occupancy. No building or improvement shall be occupied, unless that which was submitted and approved by the Committee has been substantially completed.

ARTICLE IV SPECIFIC RESTRICTIONS

4.1 Single Family Dwelling. No building or structure shall be erected, constructed or maintained on any lot except private single family dwellings designed for and adapted to the occupancy on not more than one (1) family, with private garage and other auxiliary buildings.

4.2 Building Height and Size. No dwelling, garage or auxiliary building shall exceed two (2) stories in height. The ground area within the outside perimeter of any residence, exclusive of porches, garage base, patios, breezeways and similar additions shall not be less than one thousand six hundred (1,600) square feet for a one (1) story dwelling, nor less than one thousand two hundred (1,200) for a dwelling of more than one (1) story. Any dwelling of more than one (1) story shall not be less than two thousand (2,000) square feet in total area, exclusive of porches, garage base, patios, breezeways and similar additions. The Committee in its sole discretion shall determine the number of stories in any structure. Any floor area below the highest finished yard elevation around the building shall be considered a basement area, and therefor not eligible for determining dwelling size.

4.3 Time for Completion. All building construction shall be completed within one (1) year from the date ground is broken. Lots shall be landscaped and seeded or sodded within one (1) year after completion of a dwelling thereon. Land-scaping shall include the area between the front lot line and the edge of the street pavement. Said landscaping must include a hard surfaced drive consisting of concrete or asphalt, and shall also include the planting of at least two (2) shade trees, having a minimum trunk

diameter of two (2) inches. No permanent gravel drive shall be permitted. The hard surface concrete or asphalt shall be installed within one (1) year from the date that the premises are occupied. One (1) electric lamppost shall be installed where the driveway abuts the front lot line.

4.4 Garages. At the same time as the private dwelling is constructed, there shall be constructed on each lot a garage large enough to accommodate a minimum of two (2) cars, but no more than three (3) cars. All garages shall be attached to the dwelling or incorporated into the basement of the dwelling. Each garage shall be in harmony with the building to which it is attached and to the Subdivision as a whole.

4.5 Temporary Structures. No temporary structure of any kind shall be moved onto any lot and no living quarters of a temporary character shall be permitted at any time. No trucks, trailers or recreational vehicles may be parked on the premises outside of the garage except for trucks used during construction or remodeling and those used in the delivery of materials and merchandise thereto.

4.6 Fences. No fences or walls shall be placed, built or erected upon any lot which shall have a height greater than five (5) feet from the final graded surface of the lot. Lot line fences are permitted, provided that they are constructed of wood and the design thereof has been submitted to and approved by the Committee in advance of construction thereof.

4.7 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except cats, dogs, and other small household pets, provided they are not kept, bred or maintained for commercial purposes, and provided they are not allowed to annoy neighbors.

4.8 Easements and Surface Drainage. In addition to any easements shown on the recorded plat, there is hereby reserved, for utility purposes and for ground water surface drainage, an easement ten (10) feet in width extending along the rear ten (10) feet of each lot. The rear ten (10) feet of each lot shall be graded and maintained so as to permit the unobstructed flow of surface water along the vicinity of the rear of the lots to logical points of discharge. Surface water drainage swales shall be created and maintained along all side lot lines to prevent drainage now toward adjacent buildings.

4.9 Building Locations. No building or the attached appurtenances (including garages) shall be located on any lot nearer the front lot line (street right-of-way line), or nearer the side or rear lot lines, than the minimum setbacks and/or offsets as provided in the applicable ordinances of the City or as may be hereafter established from time to time by the Committee.

4.10 Waste. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept on a lot, except in sanitary containers.

All incinerators, if legally permitted, or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition, screened from public view.

4.11 Local Ordinances. All lots shall be subject to all ordinances, zoning laws and other restrictions of the City of Mequon, Ozaukee County, and the State of Wisconsin, applicable thereto. In the event of any conflict between these restrictions and any statutes, ordinances or municipal regulations, compliance with the more restrictive provision shall be required.

4.12 Maintenance. Each owner of a lot shall maintain at its own expense buildings, improvements and landscaping in good repair and a clean condition, including without limitation the mowing of lawns, trimming of plants, repainting and repair of structures, repairing of drive and walk surfaces and such other measures so as to maintain a clean and orderly environment within the lots subject to this Declaration, and in accordance with the declared general purposes of this Declaration.

4.13 Nuisances. No noxious odors shall be permitted to escape from any home, lot or building site and no activity which is, or may become, a nuisance or which creates unusually loud sounds or noises shall be permitted on any home, lot or building site.

4.14 Signs. No sign of any kind shall be displayed to the public view on any lot except (1): a nameplate one (1) square foot in area or less, and (2); one (1) sign of not more than eight (8) square feet in area advertising the property "For Sale or Rental". On a corner lot, two (2) such "For Sale or Rental" signs, one facing each street, shall be permitted. No other sign shall be displayed and there shall be no other type of advertising device or activity that indicates from the exterior of a dwelling the occupants of such dwelling or their business. All signs shall be located at least ten (10) feet from any side or rear lot line.

4.15 Sewage. Each lot shall be connected with the municipal or other common sewer system, and no septic tank or individual sewage system shall be permitted.

4.16 Antennae. No external television antenna or similar aerial shall be erected without the prior approval of the Committee except that there may be erected on the roof of each home, without Committee approval, an antenna not greater than ten (10) feet in height.

4.17 Preservation of Trees. No existing trees, within thirty (30) feet of the street right-of-way line, shall, without prior approval of the Committee, be cut down, destroyed, mutilated, moved or disfigured.

4.18 Ground Fill on Building Sites. Where fill is necessary on a lot to obtain the proper topography and finished ground elevation, it shall be ground fill free of waste material and shall not contain noxious materials that will give off odors of any kind, and all dumping of fill material shall be

leveled off immediately after completion of the building. Any excess excavation earth shall be removed from the lot at the lot owner's expense and deposited within the Subdivision where directed and approved by the Committee, until such time as the Committee relinquishes this responsibility by means of a recorded addendum to these Restrictions.

4.19 Water Supply. No individual well shall be permitted on a lot. Water shall be supplied pursuant to "Huntington Park East Declaration of Water Trust", which was recorded in the office of the Register of Deeds for Ozaukee County on November 23 1979 on Volume 444, Pages 346, as Document No. 316301.

4.20 Swimming Pools. Will be permitted provided they are in-ground

4.21 Maintenance of Open Space If the Association shall fail to maintain any lands or outlets in the City of Mequon conveyed to and accepted by it, either before or after the date hereof, or if the Association shall no longer have the legal duty to maintain any property to which it holds title the owners of lots in the Subdivision shall be responsible for the maintenance of such properties, jointly with each other and with owners of other properties subject to the jurisdiction of the Association. If such owners shall thereafter fail to maintain such open space, the City of Mequon is authorized to give them written notice requiring them within 30 days. thereafter to provide the required care or to give evidence satisfactory to the City of their willingness to provide such care. Should said owners fail to do so, the City shall have the right to provide the required maintenance and to include in the tax bill for each lot subject to this declaration a proportionate share of the cost of such maintenance.

ARTICLE V

HUNTINGTON PARK HOMES ASSOCIATION, INC.

5.1 Membership. Each lot owner shall automatically become a member of the "Huntington Park Homes-Association", subject to the restrictions (except as hereinafter described), and eligible for the benefits and privileges as stated in the Articles of Incorporation of Huntington Park Homes Association, Inc., a non stock corporation, as recorded in the office of the Register of Deeds for Ozaukee County on March 2, 1970, in Volume No. 262 of Records on Pages 554 - 556.

5.2 Responsibilities and Privileges. Each lot owner shall be subject to the restrictions and responsibilities, and eligible to receive the benefits and privileges of the Bylaws of Huntington Park Homes Association, Inc., as recorded in the office of the Register of Deeds for Ozaukee County on May 4, 1970, in Volume No. 265 of Records on Pages 55 - 65.

5.3 Exceptions to Bylaws for Huntington Park East Lot Owners Only. Article VII of the Bylaws of Huntington Park Homes Association, concerning architectural control and the Architectural Control Committee, is hereby declared null and void for lot owners in Huntington Park East Subdivision only, and in its place, Article III of this Declaration shall govern.

CHARGES, ASSESSMENTS and SPECIAL ASSESSMENTS

5.4 General Annual Charge. All lots shall be subject to a general annual charge or assessment, determined solely by the Association, for the purpose of defraying the costs and expenses of the Association in carrying out its stated purposes and function, including capital expenditures to improve any property held by the Association for recreational or esthetic benefits. The rate of the general charge or assessment, which shall not exceed a maximum of thirty-five dollars (\$35.00) per annum per lot, shall be determined or fixed during the month of November or December of each year, and shall be sufficient to raise an amount which, in the judgement of the Association's members represented at a meeting called for that purpose, may be required for the ensuing calendar year. Such charges or assessments shall be paid annually to the Association, on or before the first day of February in each year, and if not paid on or before such date the charges or assessments shall bear interest at the rate of 8% per annum from February 1 of such year until paid in full.

5.5 Assessments to Obtain Compliance with Restrictions.

All lots shall also be subject to special assessments by the Board of Directors of the Association to cover all or any portion of the expenses incident to the enforcement of the recorded Deed Restrictions concerning said lot, and for caring for vacant, unimproved or unkept lots and removing weeds, grass, or any other unsightly or undesirable objects therefrom.

5.6 Enforcement. The right to collect or enforce the collection of charges, assessments, and special assessments is hereby exclusively delegated to the Association. The purchasers of lots, and any portion thereof, shall be personally obligated to pay such charges, assessments and special assessments upon the land purchases or to be purchased by them. All charges, assessments and special assessments levied by the Association pursuant to this Article V, which are unpaid on February 1st of the year in which due, and any charge levied by the City for main-tenance of the open space pursuant to Section 4.21 hereof, which charge is not paid at the due date specified by the City in its statement therefor, shall from that time on become and remain a lien upon the lot until paid, with interest thereon. The association shall have the exclusive right and power to collect or enforce the collection of all charges, annual assessments and special assessments imposed by it by reason of this Article V, and shall have the exclusive right to bring any and all actions and proceedings for the collection thereof and for the

enforcement of liens arising therefrom. Any liens securing unpaid charges, assessments or special assessments arising by virtue of this Article V shall be subject and subordinate to the lien of any mortgage, whether the mortgage is executed or recorded prior to or after the creation of such liens. Nothing herein contained shall prevent or impede the collection of lawful charges, special assessments and similar taxes by the City.

ARTICLE VI MISCELLANEOUS

6.1 Term and Amendment. Unless as amended as provided herein, this Declaration shall run with the land and shall be binding upon all persons claiming under Developer a period of ten (10) years from the date that this Declaration is initially recorded. Until all of the lots subject to this Declaration have been sold by Developer, this Declaration may be amended by the recording of a written instrument executed by or on behalf of all of the following: (1) Developer and

(2) the owners of at least sixty (60%) percent of the lots subject to this Declaration. Thereafter until the termination of this Declaration, this Declaration may be amended by the recording of an instrument executed by the owners of at least sixty (60%) percent of the lots subject hereto. All amendments shall be consistent with the general plan of development embodied in this Declaration. After the expiration of the initial term of this Declaration, this Declaration (as presently written or as so amended) shall be automatically extended for successive periods of ten (10) years, unless an instrument executed by the owners of at least sixty (60%) percent of the lots subject hereto has been recorded to terminate or amend the same in whole or in part. In ascertaining the number of owners assenting to any such instrument, persons having the power to convey the fee simple title in a given lot shall constitute a unit having a single vote.

6.2 Enforcement. The Committee shall have the sole right to enforce the provisions hereof or any of its orders by proceedings at law or in equity against any person or persons violating or attempting to-violate any provisions of this Declaration, either to restrain the violation or to recover damages, or both, for a period which shall include thirty (30) days from the date of the filing with said Committee of a petition by any person who shall be an owner of a lot subject to this Declaration on the date of the filing, petitioning the Committee to redress the violation or attempted violation of any of the provisions of this Declaration by any other persons. Such period of thirty (30) days shall be considered to be a period for the consideration of the petition by the Committee and in the event that the Committee

denies or fails to act upon the petition to the satisfaction of the petitioner, within the thirty (30) day period, thereafter such petitioner shall have the right to enforce the provisions hereof, to the extent that he shall so have petitioned, by proceedings at law or in equity against any person or persons violating or attempting to violate the provisions of this Declaration, either to restrain the violation or to recover damages, or both, provided, however, that any such person shall commence such proceedings against such other person or persons within a period of sixty (60) days from (1) the date of the Committee's denial of such petition, or (2) the passage of the aforementioned thirty (30) day period for consideration of the petition by the Committee. The petitioner's right to commence such proceedings shall be conditioned on his (a) being an owner of a lot subject to this Declaration, and (b) commencing such proceedings within sixty (60) days of the earlier date to occur of (1) or (2) of this section.

6.3 Severability. Invalidation of any one or more of these covenants by judgment or court order shall in no way affect any other provisions, which other provisions shall remain in full force and effect.

6.4 Definitions. The following definitions shall be applicable to this Declaration:

(a) Owner. The person or persons, including any business organization, having the power to convey the fee simple title to a given lot.

(b) Building Site or Lot. Property subject to this Declaration.

(c) Family. One or more persons living, sleeping, cooking or eating on premises as single housekeeping group, and shall exclude a group or groups of persons where three (3) or more persons thereof are not household employees or related by blood, adoption or marriage.

(d) Register of Deeds. Office of Register of Deeds for Ozaukee County

(e) Committee. The Architectural Control Committee.

(f) Declaration. This Declaration of Restrictions.

6.5 Nonforfeiture. Any violation of these restrictions shall not result in a forfeiture or reversion of title to any lot in the Subdivision.

Executed at Milwaukee, Wisconsin, the day and year first above written.