

SECOND SUPPLEMENTAL AMENDED AND RESTATED
DECLARATION OF RESTRICTIONS
FOR
LAKE FOREST SUBDIVISION

W H E R E A S , LAKE FOREST RESIDENTIAL DEVELOPMENT LIMITED PARTNERSHIP, by LAKE FOREST RESIDENTIAL INC., ITS GENERAL PARTNER duly organized and existing under and by the virtue of the laws of the State of Wisconsin, (herein referred to as "Developer" which term shall also include the duly authorized agent of Developer), executed a Declaration of Restrictions for LAKE FOREST Subdivision ("Declaration") on January 30, 1991 which was recorded in the Office of the Register of Deeds of Waukesha County, Wisconsin, on February 8, 1991, as Document No. 1634411; and W H E R E A S, the following parcel of real estate LAKE FOREST was subject to the Declaration:

LAKE FOREST, being a subdivision of that part of the Southwest 1/4 and of the Southeast 1/4 section of the Southwest 1/4 of Section 8 the Southwest 1/4 section and the Southeast 1/4 section of the Southeast 1/4 of Section 8 and the Northeast 1/4 Section 17, Town 5 North, Range 20 East, in the City of Muskego, Waukesha County, Wisconsin including thereto Outlot 1 of Certified Survey Map No. 2840.

W H E R E A S , Section C of the Declaration permitted future stages of development to be added to the Declaration if such future stages become adjacent to the real estate which is, or becomes subject to that Declaration or any additional supplemental Declaration of LAKE FOREST.

W H E R E A S, Developer is the owner of LAKE FOREST ADDITION NO 2, being a subdivision of Outlot 4 of "LAKE FOREST", a subdivision of record being all that part the Southwest 1/4 and Southeast 1/4 Section of the Southwest 1/4 section of the Southeast 1/4 of Section 8, Township 5 North Range 20 East in the City of Muskego, Waukesha County, Wisconsin which contains 25 Single Family lots all of which are adjacent to the real estate which is subject to the original Declaration.

WHEREAS, it is the desire of the Developer to bring LAKE FOREST ADDITION NO. 2, within the original Declaration by executing this document ("Second Supplemental Declaration").

NOW, THEREFORE, Developer, intending to establish a general plan for the use, occupancy and enjoyment of LAKE FOREST ADDITION NO. 2 does hereby declare that, for the mutual benefit of present and future owners, LAKE FOREST and LAKE FOREST ADDITION NO. 2 shall be subject to the following restrictions:

A. BUILDING RESTRICTIONS (LAKE FOREST AND LAKE FOREST ADDITION NO. 2. SINGLE FAMILY LOTS)

1. All single family lots in LAKE FOREST & LAKE FOREST ADDITION NO.1 are restricted to the erection of one story, story and one-half or split level single family residence building and attached garage.
2. The minimum size of a one story home shall be 1700 square feet on the first floor.
3. A story and one-half home shall have a minimum of 1200 square feet of the first floor.
4. A two story home shall have a minimum of 1100 square feet on the first floor with a total of 2200 square feet .
5. A split level or bi-level home shall have a minimum of 1800 square on the upper two levels.
6. The garage must be attached to the home directly or by breezeway, or built in the basement of the home and must be constructed with the home. The maximum size of a garage shall be 900 square feet.
7. The house and attached garage must be completed within one year from the start of construction.
8. Only one residence may be erected on a lot.
9. The minimum setback from any abutting street right -of-way is 40 feet. Sideyard offsets shall be a minimum of 15 feet. Rear Yard setbacks shall be 20 feet.
10. There shall be no outside storage of boats, trailers, campers, or other vehicles or items deemed to be unsightly by the Developer.

11. There shall be no above ground swimming pool in **LAKE FOREST OR LAKE FOREST ADDITION NO. 2.**

12. All driveways shall be paved within one year of occupancy of the home in **LAKE FOREST AND LAKE FOREST ADDITION NO. 2.**

13. All building plans and the exterior design of each dwelling unit to be constructed in **LAKE FOREST AND LAKE FOREST ADDITION NO. 2,** must be approved by Developer in writing prior to application for a building permit. In addition, basic site features such as fences, garden structures, satellite dishes, additions and other temporary or permanent structures or elements contributing significantly to the total environmental effect with **LAKE FOREST AND LAKE FOREST ADDITION NO. 2** subject to the prior written approval of the Developer.

14. There shall be installed in a location designated by the Developer at the time of construction of a residence building on a lot, one outdoor electric lamppost with photo-electric controls. The design of the lamppost shall be subject to the approval of the Developer. The lamppost shall be maintained by the lot owner in a proper operating manner. If the lamppost is not maintained, maintenance shall be performed by the **LAKE FOREST HOME OWNER'S ASSOCIATION,** created pursuant to Section B, below, and the cost of such maintenance shall be an assessment against the lot owner, payable within ten (10) days after the date of assessment.

B. OWNERS ASSOCIATION

1. An unincorporated association (herein referred to as the "Association") of the owners of lands in **LAKE FOREST AND LAKE FOREST ADDITION NO. 2** and all future stages of development as provided in Section C, below (herein referred to individually as "Owner" and collectively as "Owner" and collectively as "Owners"), is hereby created for purposes of managing and controlling subdivision Common Areas (as defined below) and performing other duties as set forth herein for the common benefit of the Owners. The Owners of Lots 1 thru 59 in **LAKE FOREST,** and the owners of Lots 60 thru 145 in **LAKE FOREST ADDITION NO. 1** and the Owners of Lots 146 thru 170 in **LAKE FOREST ADDITION NO. 2** shall have a 1/170th

interest in outlots 2 and 3 in **LAKE FOREST** and **OUTLOT IN LAKE FOREST ADDITION NO. 1**. In the event the City of Muskego, or the County of Waukesha becomes an owner of any lot through tax delinquency process, the City and the county shall not be liable for any homeowner's fees nor any special assessment against said lots. the Association shall be known as "**LAKE FOREST HOMEOWNERS ASSOCIATION**".

2. The term "Common Area: shall include the following areas which are generally identified on the attached Exhibit"A", plus any additional common areas which may be added in accordance with Paragraph b and c below. Any portion of the Common Area with a public street right-of-way may only be improved with the consent of the appropriate public authorities.

(a) Outlots 2 and 3 in **LAKE FOREST AND OUTLOT 7 IN LAKE FOREST ADDITION NO. 1**

(b) All landscaped boulevards contained within the dedicated streets in **LAKE FOREST AND LAKE FOREST ADDITION NO. 2**

(c) The area of easements over the portions of the adjacent multi-family development known as **OVERLOOK BAY APARTMENTS** for the purpose of removing sediment build-up and maintenance with Sediment Basin #1 and Sediment Basin #2 as identified on the attached Exhibit "B". The sediment shall be removed by **LAKE FOREST HOMEOWNER'S ASSOCIATION** when sediment deposits reach an elevation within 2 feet of the invert elevation of the riser contained within the respective sediment basin.

3. The Association shall be governed by three-member Committee here-in-after referred to as the "Committee", which shall be solely responsible for the activated of the Association. The initial members of the Committee shall be Robert A. Patch, William A. Patch and William W. Carity.

4. To qualify as a member of the committee, a person must be either an owner or a duly designated officer or representative of an Owner.

5. So long as fifty percent (50%) or more of the single family lots in **LAKE FOREST AND LAKE FOREST ADDITION NO. 2**, are owed by developer, all three

(3) members of the Committee shall be appointed by developer. So long as twenty per cent (20%) or more but less than fifty (50%) of the single family lots in LAKE FOREST AND LAKE FOREST ADDITION NO. 2 are owned by Developer, two (2) members of the Committee shall be appointed by developer and one (1) member shall be elected as provided herein. So long as five percent (5%) or more, but less than twenty (20%) of the single family lots in LAKE FOREST AND LAKE FOREST ADDITION NO. 2 are owned by Developer, two (2) members shall be elected as provided herein. If less than five (5%) of the single family lots in LAKE FOREST AND LAKE FOREST ADDITION NO. 2 are owned by Developer, all of the members of the Committee shall be elected as provided herein. The provisions of this paragraph shall also apply to any future stages of Development in accordance with Section C, below and the lots contained therein shall not be considered in determining the above percentages.

6. Each Owner shall be entitled to vote in person or by proxy in election for selecting members of the Committee. Owners of single family lots shall have one (1) vote for each lot owned.

7. The term of office of the initial members of the Committee shall commence upon execution hereof and shall continue until December 31, 1991. Thereafter, the term of office of members of the Committee shall be for one (1) calendar year. If any member of the Committee shall die, resign, be unable to act or cease to be qualified, then there shall be a special election, (or appointment by Developer, if applicable, pursuant to the terms of Paragraph B,5, above).

8. All meetings of the Committee shall be opened to Owners and held upon not less than three (3) days prior written notice to all of the Owners. Two (2) members of the committee shall constitute a quorum. Actions of the Committee shall be taken by majority vote.

9. The Committee shall have the following duties:

- (a) Provide for the maintenance of improvements in the Common Area.
- (b) Establish dates and procedures for the elections of members of the Committee.

- (c) Promulgate operating procedures for the conduct of the Association and committee's affairs.
 - (d) Enforcement of the provisions of this Section B.
10. The Committee shall have the following powers:
- (a) Cause the common Area to be maintained, repaired, landscaped and kept in good, clean and attractive condition.
 - (b) Enter into contracts and to employ agents, attorneys or other for purposes of discharging its duties and responsibilities hereunder.
 - (c) Levy and collect assessments in accordance with the provisions of Paragraph 11, below.
11. The Committee shall levy and collect assessments in accordance with the following:
- (a) The Owner of each single family lot shall be subject to a general annual charge or assessment for the purpose of defraying the costs of maintaining and administering the common Area. Such annual assessment shall be a prorata share (one (1) share per lot for each single family lot) of the costs incurred or anticipated to be incurred by the Association in performing its duties. Said costs shall include, but not be limited to payment of taxes, insurance, repair, replacement and additions to the improvements made to the Common Area, the cost of labor, equipment, materials, management and supervision thereof, and all costs of the Association reasonable incurred in conducting its affairs and enforcing the provisions of this Section B.
 - (b) Assessments must be approved at a duly convened meeting of the Committee.
 - (c) Written notice of an assessment shall be personally delivered to each Owner subject to the assessment or delivered by certified mail addressed to the last known address of such Owner.
 - (d) Assessments shall become due and payable thirty (30) days after the mailing or personal delivery of the notice, as the case may be.

(e) Assessments not paid when due shall bear interest at the rate of twelve (12%) per annum until paid, and such unpaid assessments and the interest hereon shall constitute a continuing lien against the real estate which it was assessed and interest thereon shall also be the personal obligation of the Owner of the real estate against which the assessment was made.

(f) The Committee may record a document with the Register of Deeds in Waukesha County, Wisconsin, giving notice or a lien for any such unpaid assessment and upon payment or satisfaction of the amount due, record a document canceling or releasing any such lien. The failure to file any such notice shall not impair the validity of the lien. All recording and attorney fees relating to any such document shall be borne by the affected Owner.

(g) Upon application by an Owner, any member of the Committee, without calling a meeting of the committee, provide to such Owner a statement in recordable form certifying (1) that the signer is a duly elected member of the Committee and (2) as to the existence of any unpaid assessments or other amounts due to the Association. Such statement shall be binding upon the Committee and shall be conclusive evidence to any party relying thereon of the payment of any and all outstanding assessments or other amounts due to the Association.

(h) Any lien for assessment may be foreclosed by a suit brought by the Committee, acting on behalf of the Association, in a like manner as the foreclosure of a mortgage on a real property.

12. Members of the Committee shall not be liable for any action taken by them in good faith in discharging their duties hereunder, even if such action involved a mistaken judgement or negligence by the member or agents or employees of the Committee. The Association shall indemnify and hold the members of the Committee harmless from and against any and all costs or expense, including reasonable attorney's fees, in connection with any suit or other action relating to the performance of their duties hereunder.

13. Failure of the Association or the Committee to enforce any provisions contained in this Section B, upon the violation thereof, shall not be deemed to be a waiver of the rights to do so, or an acquiescence in any subsequent violation.

14. If the Committee shall fail to discharge its duties under this Section B within sixty (60) days of written demand by the City, the City may discharge the duties of the Committee. The costs of the City incurred in connection therewith shall be charges to the Owners of the properties affected by such actions of the City by adding to each Owner's real estate tax statement incurring a charge equal to such Owner's pro rata share (the same as such Owner's share of annual assessments as provided in sub-paragraph B11 (a) (above) of such costs.

C. **FUTURE STAGES OF DEVELOPMENT OF LAKE FOREST AND
LAKE FOREST ADDITION NO. 1 AND LAKE FOREST ADDITION NO. 2**

The Developer, its successors and assigns shall have the right to bring within this Declaration future stages of the Development of **LAKE FOREST, AND LAKE FOREST ADDITION NO. 1 AND LAKE FORST ADDITION NO. 2** provided such future stages are to become adjacent to the real estate which is or becomes subject to this Declaration or any additional supplemental declaration. The future stages added to this Declaration authorized under this sub-section shall be added by recording a supplemental declaration of restrictions with respect to the future stages which shall extend the provisions of this Declaration to such future stages. Except with respect to increasing the number of Owners and adding to the Common Area, such supplemental declaration shall not revoke, modify or add to the covenants established by this Declaration affecting **LAKE FOREST AND LAKE FOREST ADDITION NO. 2** provided such future stages are to become adjacent to the real estate which is or becomes subject to this Declaration or any additional supplemental declaration. The future stages added to this Declaration authorized under this sub-section shall be added by recording a supplemental declaration of restrictions with respect to the future stages which shall extend the provisions of this Declaration to such future stages. Except with respect to increasing the number of Owners and adding to the Common Area, such supplemental declaration shall not revoke, modify or add to the covenants established by this Declaration affecting **LAKE FOREST ADDITION NO 1.**

D. AMENDMENT PROVISIONS

Any of the provisions of this Declaration maybe annulled, waived, changed, modified or amended at any time by written declaration setting forth such annulment, waiver, change, modification or amendment, executed by the Owners of lands having at least sixty (60%) percent of the votes in the Association; provided, however, that any such action must also be approved in writing by (i) the City, and (ii) the Developer so long as it shall be an Owner. This Declaration and all amendments shall be executed as required by law so as to entitle it to be recorded, and shall be effective upon recording in the Office of the Register of Deeds for Waukesha County, Wisconsin.

E. DURATION OF RESTRICTIONS

These restrictions shall be in force perpetually and shall be deemed to run with the land and shall bind the Owners and their heirs, successors and assigns and be enforceable by any Owner and, to the extent permitted by Paragraph B 14, above, the City.

IN WITNESS WHEREOF,

The undersigned, being a duly authorized officers of LAKE FOREST RESIDENTIAL DEVELOPMENT LIMITED PARTNERSHIP, INC. by LAKE FOREST RESIDENTIAL, INC., ITS GENERAL PARTNER, has executed this First Supplemental Amended and Restated Declaration for LAKE FOREST ADDITION NO. 2. this day of , 1991.

LAKE FOREST RESIDENTIAL, DEVELOPMENT
LIMITED PARTNERSHIP, BY LAKE FOREST
RESIDENTIAL, INC., ITS GENERAL PARTNER

By:

Robert A. Patch, President

By:

William A. Patch, Secretary

STATE OF WISCONSIN)
) s.s.
COUNTY OF WAUKESHA)

Personally came before me this day of the above - named ROBERT A. PATCH, and WILLIAM A. PATCH to me known to be the persons who executed the foregoing instrument and acknowledge the same.

William W. Carity
Waukesha County, WI
My commission expires: November 28, 1993

ADDENDUM "A"

SUMMARY OF BUILDING RESTRICTIONS AND ARCHITECTURAL GUIDELINES

1. MINIMUM RESIDENCE SIZE AND GARAGES.

The ground area within the perimeter of the residence constructed on the Premises at grade exclusive of porch, garage, bays, patio, breezeway and other similar additions, shall not be less than as hereinafter specified:

- a. Not less than 1700 square feet for a one-story residence.
- b. Not less than 1200 square feet on the first floor for a story and one-half residence.
- c. Not less than 1100 square feet on the first floor, and not less than 2200 square feet in total area for a two-story residence.
- d. Not less than 1800 square feet on the upper two levels in a split-level or bi-level Residence.

The residence and garage on the Premises are to be constructed contemporaneously and the garage must be attached to the residence directly or by breezeway or built in the basement of the residence. Garages must have a minimum capacity for two cars and may not exceed 900 square feet.

2. OTHER IMPROVEMENT RESTRICTIONS.

All improvements constructed on the Premises shall be subject to the following restrictions:

- a. There shall be no above-ground swimming pool permitted on the premises.
- b. The residence and garage must be completed within one year of commencement of construction and only one residence may be constructed on the Premises.
- c. The Premises may not be used for storage or long-term parking of any recreational vehicle, including without limitation, boats, campers, trailers and motor home unless such vehicle is completely located within the garage.
- d. The driveway shall be paved within one year of substantial completion of the construction of the residence.
- e. Minimum setbacks from any abutting street right of way shall be 40 feet with side yard setbacks a minimum of 15 feet. Rear yard setbacks shall be not less than 20 feet.
- f. Prior to occupancy, the Premises shall have an electric lamp post with photo electric controls installed at Buyer's expense in a location designated by the Committee's prior written approval. From and after installation, the lamp post shall be properly maintained by Buyer.

3. ARCHITECTURAL CONTROL GUIDELINES

No residence or other improvement may be erected, placed, altered or planted on the Premises without the prior written approval of the Architectural Control Committee appointed by Seller (the "Committee") of all plans, specifications, building locations and grades. Specific guidelines are as follows:

- X a. Windows, shutters, window casings and trim features shall be consistent throughout a dwelling. Where any of the foregoing is used on the front of a Dwelling, windows on the rear of the Dwelling shall be similarly constructed throughout.
- X b. All exterior walls and materials shall be constructed of natural materials and variety is to be kept to a minimum with consistency preserved on all elevations. Where masonry is used on exterior walls, it should terminate only at inside corners. This shall also apply to exterior panels of other materials such as vertical siding.
- X c. The number of different exterior colors shall be kept to a minimum. It is recommended that no more than two colors be allowed on exterior walls and trim with one additional color for accent items such as shutters and doors.
- d. All yard grades and stakeout surveys shall be approved by the Committee prior to commencement of construction. The Committee may, at its discretion, require exposed basement walls on sloping Lots as may be necessary or desirable to minimize adverse impact on trees and vegetation and to promote drainage. All exposed basement or foundation walls shall be covered with masonry veneer or plaster. Additionally, the Committee may require the garage to be located on the high side of a sloping lot.
- e. Steeper roof grades shall be preferred. Additionally, gables projecting Dwelling fronts shall have a roof pitch of a minimum of 6 inches in rise for every 12 inches of distance.

Notwithstanding anything in the foregoing to the contrary, the Committee or its designated representatives, may elect to waive or intensify one or more of the above guidelines.

Lot owners are to submit three copies of their house plans and stake out survey to the Committee for approval prior to making application for a Building Permit.

4. SURVIVAL.

The foregoing Plan Approval Guidelines shall survive the Closing and shall not merge in the Deed.

- I. In the event Buyer encounters, during the course of construction, irregular subsoil conditions requiring greater than 11 courses of block in the basement and 6 courses in the garage, and a 5 course stoop area or any other extra expenses incurred due to irregular subsoils, the Seller shall be responsible as follows:
 1. Upon excavation and discovery of the requirements for extra courses or other related extra costs, the Buyer shall halt all further construction and shall promptly notify Seller who shall have the right to inspect the excavation.
 2. Upon verification by the Seller if irregular subsoil conditions, the Seller agrees to reimburse the Buyer for extra construction expenses. The maximum to be charged the Seller shall not exceed \$2.50 for each concrete block installed.
 3. If said extra expense is incurred because of variation from the yard grades shown on the Master Grading Plan on file at the City of Muskego, or because of the unusual design of the home (ie. exposed basement walls), this provision shall be null and void and the Seller shall have no financial responsibility to reimburse the Buyer for extra costs.
 4. This warranty shall apply only to the actual cost of concrete block or other foundation or stone costs for basement construction only and not to any other cost incurred.
 5. This Warranty shall survive the Closing.