

DECLARATION OF RESTRICTIONS
for Country Club Oaks

THIS DECLARATION, made this _____ day of _____, 19____ by Scott F. Krause and Dolores A. Krause, the Developers

WITNESSETH:

WHEREAS, the Developers, Scott F. and Dolores A. Krause, own the subdivision in the City of Muskego (the "City"), hereinafter legally described which has been platted as "Country Club Oaks" (the "Subdivision"), a planned development consisting of five (5) single family residential lots and two (2) outlots for common use and enjoyment by all residents of the Subdivision; and Developers desire to subject the Subdivision to the conditions, restrictions, covenants, reservations and easements hereinafter set forth for the benefit of the Subdivision as a whole and for the benefit of each owner of any part of the Subdivision;

NOW, THEREFORE, Developers hereby declare that the real property hereinafter described 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 in interest, and any owner thereof.

DEFINITION OF TERMS: "Family" shall mean one or more than one person living, sleeping, cooking or eating on premises as a single housekeeping group, and shall exclude a group or groups of persons where three or more persons thereof are not household employees or related by blood, adoption or marriage. "Association" shall mean the Country Club Oaks Homeowners' Association, Inc., a nonstock Wisconsin corporation, or its corporate successor. "Architectural Control Committee" shall mean the Committee referred to in Article III hereof. "Lot" shall mean a lot in the Subdivision platted for residential development, and shall not include any platted outlot. "Outlot" shall mean a parcel designated as an outlot on the Subdivision plat, which, by reason of such designation, is not platted as a building site. "Dwelling" shall mean a building containing and intended for only one (1) family.

ARTICLE I

PROPERTY subject to this Declaration. The following property shall be subject to this Declaration:

All that part of the N.E. $\frac{1}{4}$ of Section 26, T.5 N., R.20 E., in the City of Muskego, Waukesha County, Wisconsin, bounded and described as follows:

Commencing at the Northeast corner of said $\frac{1}{4}$ Section; thence S.87°39'10"W., along the north line of said $\frac{1}{4}$ Section 1005.00 feet to a point; thence S. 00°29'58" E., 210.00 feet to a point; thence S.02°14'48" E., 982.55 feet to the point of beginning of the land to be described; thence continuing S.02°04'48" E., 320.48 feet to a point; thence N.88°00'00"W., 773.08 feet to a point; thence S.58°10'W., 230.00 feet to a point; thence S.28°50'E., 125.00 feet to a point; thence S.64°40'W., 120.00 feet to a point; thence N.80°40' W., 160.00 feet to a point; thence S.54°35'W., 120.00 feet to a point; thence N.51°30'W., 231.00 feet to a point thence S.38°18'34"W., 354.48 feet to a point; thence N.01°04'09"W., along the west line of said $\frac{1}{4}$ Section 600.00 feet to a point; thence N.88°51'10"E., 1330.76 feet to a point; thence N.00°29' 58" W., 120.00 feet to a point; thence N.88°51' 10"E., 342.56 feet to the point of beginning.

This property may more generally be described as being approximately 12.23 acres at the most southerly end of Groveway Lane. f

ARTICLE II

Use of Lots and Similar Matters

- 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 and toward that end to preserve and maintain the natural beauty of certain open spaces and recreational areas within and in the vicinity of the Subdivision; 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 material and color schemes; to insure the highest and best residential development of said 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 inharmonious improvement of building sites; and to secure and maintain proper spatial relationship of structures to other structures and lot lines.
- 2.2 **Type of Dwellings Permitted:** No lot shall be used except for single family residential purposes. No building shall be erected, altered, placed or permitted to remain on any such lot other than one detached, single-family dwelling, not exceeding two floors in height, excluding basement, and including an attached private garage for not more than three cars. Such garage entrances may not face the public street or have potential to be of annoyance to other dwellings. All dwellings must have attached private garages of at least two car capacity. No dwellings of the pre-fabricated, pre-cut or factory-built type may be erected on any lot in the Subdivision.

The minimum living area and services of each such single-family dwelling shall be as follows, not including area of garages, porches, patios and decks:

- a. One story dwellings: no less than 1,800 square feet containing a minimum of two bedrooms, two complete bathrooms (bathtub or shower, toilet and sink), and laundry facilities on the living level.
- b. Two story dwellings: no less than 1,200 square feet on the first floor including at least $\frac{1}{2}$ bath (toilet and sink) and laundry facilities and no less than 1,000 square feet on the second floor including at least two bedrooms and two full bathrooms.
- c. One and $\frac{1}{2}$ story dwellings: no less than 1,400 square feet on the first floor including at least one bedroom, one full bathroom and laundry facilities plus no less than 600 square feet on the second floor including at least two bedrooms and one full bathroom.

d. *Tri-Level or Multi-Level Dwellings*: No less than 1,600 square feet on the upper two levels containing at least two bedrooms, one full bathroom and $\frac{1}{2}$ bathroom. Lower level living areas must contain at least 700 square feet and include at least one full bathroom. Laundry facilities may be on any level except in the basement.

e. *Bi-Level or Split Entry Dwellings*: no less than 1,400 square feet on the upper level including at least two bedrooms, one full bathroom and $\frac{1}{2}$ bathroom. No less than 800 square feet on the lower level including at least one full bathroom. Laundry facilities may be on either level.

No single story, story and $\frac{1}{2}$ or two story dwellings may be built without basements with a total area equal to at least $\frac{2}{3}$ of the total living area of the main floor. The architectural control committee shall have exclusive right to determine whether such area and service requirements will be met by any proposed single-family dwelling. Any action by said committee shall be final and conclusive with no right of appeal.

2.3 *Architectural Control*: All structures shall be designed by a registered architect, a professional engineer experienced in home design, an equally qualified individual or firm. No building, wall, fence or other structure shall be erected, placed or altered on any lot until the building plans, specifications and plot plan showing the location thereof have been approved in writing by the Architectural Control Committee as to quality, materials, harmony of external design and colors with existing and/or planned structures; as to location with respect to topography, setbacks, finish grade elevations, driveways and plantings; and as to compliance with all applicable restrictions contained in this Declaration. Further specific provisions are as follows:

- a. No two dwellings in the Subdivision may be of the same or closely similar floor plan, exterior appearance or character. When considering proposed dwellings, comparison will be made with existing dwellings in the Subdivision and plans previously submitted to the Architectural Control Committee for approval. Whenever doubt exists, the first submitted plans shall take preference and be approved or altered first.
- b. All dwellings must have exteriors consisting of natural materials. No artificial stone, wood, brick or other material will be allowed including, but not limited to, aluminum siding, etc.
- c. All dwellings must contain at least one fireplace of at least partially masonry construction.
- d. All dwellings must be constructed with basements or lower levels of masonry construction below finished grade.
- e. All municipal, county and state building codes and regulations must be adhered to. Should any conflict exist between governmental codes or regulations and these covenants, the more stringent shall prevail.

- 2.4 **Building Location:** Building location shall be in accordance with City requirements and must first be approved by the Architectural Control Committee. In general, no part of any dwelling including garages may be located closer than 50 feet from the public street including easements, a total of 30 feet to side lot lines when distance on each side is added together, 10 feet to one side lot line or 50 to the rear lot line. All dwellings must be located in such a way as to maintain as much of the natural topography of the lot as possible. It is intended that dwellings be placed informally so as to preserve the natural beauty of the Subdivision as well as trees.
- 2.5 **Auto Parking, Garages, Driveways, Etc.:** Provision shall be made on each lot, in addition to garages, for outside, onsite parking of at least two cars per dwelling, such provisions to consist of properly surfaced area connected to the street by properly surfaced driveway. All parking areas and driveways must be hard surfaced with either asphalt or concrete within one year of occupancy of the dwelling or the Developer has the option of performing the required task at cost plus 25% and may enforce collection including full costs of such collection should the occupant refuse payment. No boats, trailers, motorized campers, etc. may be parked or stored on any lot for a period exceeding two weeks in any six (6) month period and no truck or trucks may be parked on any such lot outside of a garage, other than for delivery of material or merchandise, or except during construction or remodeling periods.
- 2.6 **Preservation of Trees:** no existing tree with a diameter of eight (8) inches or more at a height of four (4) feet from the ground shall, without approval of the Architectural Control Committee, be cut down, destroyed, mutilated, moved or disfigured; and all existing trees shall be protected during construction and preserved by wells or islands and proper grading in such manner as may be required by the Architectural Control Committee.
- 2.7 **Ground Fill on Building Site:** 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 immediately after completion of the building.
- 2.8 In addition to any easements shown on the recorded plat, there is hereby reserved for ground water surface drainage, an easement ten (10) feet in width extending along the common lot line separating lots 3 and 4. Surface water drainage swales shall be created and maintained along all side lot lines to prevent flow toward adjacent dwellings. The location of the proper course and method of drainage on each lot shall be determined by the Architectural Control Committee.
- 2.9 **Nuisances:** No noxious odors shall be permitted to escape from any dwelling or lot and no activity which is or may become a nuisance or which creates unusually loud noises shall be suffered or permitted on any lot including outlots.

- 2.10 Appurtenant Structures: No structure of either a permanent or temporary nature other than the dwelling and attached garage or other dwelling area may be erected, stored or used on any lot including but not limited to storage buildings, dog runs, stables, etc.
- 2.11 Signs: no sign of any kind shall be displayed to public view on any lot except one sign of not more than 12 square feet advertising the property for sale or rent or during the construction period advertising the builder. All signs shall be located at least 10 feet back from the lot line.
- 2.12 Animals and Poultry: No animals, livestock or poultry of any kind may be bred or kept on any lot, except that dogs and cats may be kept as household pets provided they are not kept, bred or maintained for any commercial purpose, allowed outside the confines of the owner's lot except on a leash, nor allowed to annoy neighbors.
- 2.13 Water Supply: Each dwelling shall be connected to a private well or Subdivision community well if such is approved and available prior to the start of construction of the first dwelling in the Subdivision.
- 2.14 Sewage Disposal: each dwelling shall be connected to the municipal sewer/holding tank and no septic tank or individual sewage system shall be permitted.
- 2.15 Garbage & Refuse Disposal: No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste. All such rubbish shall be kept only in sanitary containers screened from view from the street.
- 2.16 Antennae: Except for rooftop antennae which extend not more than five feet above the highest point in the roofline of the dwelling, no external television antennae or similar devices shall be erected without the prior approval of the Architectural Control Committee.
- 2.17 Exterior Service & Utility Wiring: All exterior service and utility wiring, including service drops to individual dwellings shall be installed underground and no overhead wires shall be permitted within the Subdivision, except such overhead wires as may have been installed prior to the recording of this Declaration of Restrictions.
- 2.18 Fences and Wall: No fence or wall shall be permitted except those of a purely decorative or landscaping nature or those required to meet governmental regulations. No fence or wall may be erected on any lot except upon approval by the Architectural Control Committee.
- 2.19 Motorized Vehicles: No motorcycles, snowmobiles, trail bikes, dune buggies or off-street motorized vehicles of whatsoever type or description shall be operated on any outlot, driveway, parking area, private road or open space within the Subdivision.

- 2.20 Landscaping: all dwelling lots shall be fully landscaped with grass and shrubs according to the landscape plan submitted within one year of occupancy of the dwelling or the same provisions as stated in 2.5 above may be enforced at the discretion of the Architectural Control Committee. Lawns must be maintained and mowed at heights acceptable to the committee.
- 2.21 Effect of Approval: Upon approval of the building plans, specifications, plat plan and landscaping plan by the Architectural Control Committee and upon receipt of all necessary municipal or other governmental approvals, consents and permits, construction in accordance with said plans and specifications may commence. Such construction shall be completed suitable for occupancy within 12 months after the last such approval has been received. In the event said Committee fails to act upon said plans and specifications within 30 days after submission, or in any event, if no suit to enjoin the erection of such structure or the making of such alterations or to require the removal thereof has been commenced before one year from the date of the completion thereof, no right shall exist to enforce these covenants insofar as they require such approval.
- 2.22 Use of Outlots: outlots shall be used only in accordance with the "Open Space Agreement" between the Developers and the City relating thereto and recorded concurrently herewith, as the same may be amended by agreement between Developer and the City and in effect from time to time.

ARTICLE III

ARCHITECTURAL CONTROL COMMITTEE

- 3.1 Membership: Until such time as the last dwelling to be built has been approved and built in accordance with the provisions contained in these Declarations, the Architectural Control Committee shall consist of the Developers themselves. Thereafter the Committee shall consist of a maximum of three residents of the Subdivision chosen and governed in accordance with the by-laws of the Association.
- 3.2 Procedure: any approval required by this Declaration to be obtained from the Committee shall be in writing. Promptly after acting upon any request for approval presented to it, the Committee shall, in writing, notify the person submitting such request of its determination. In the event said Committee fails to act on said plans and specifications within thirty days, the provisions in 2.21 above will apply. Upon request, the statutory registered agent of the Association shall furnish a written statement of the name and address of the persons to whom plans, specifications and requests for approval may be submitted for consideration by the Committee. Submission of plans, specifications and requests for approval to the person so designated by the registered agent shall constitute submission to the Committee for all purposes under these Declarations, or, if the registered agent shall fail to make the aforementioned designation, submission of plans, specifications and requests for approval to the registered agent shall constitute submission of the same to the Committee for all purposes under this Declaration.

ARTICLE IV

CHARGES, ASSESSMENTS & SPECIAL ASSESSMENTS

- 4.1 **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 functions, including the costs of defraying the costs of maintaining the administering such open spaces and recreational facilities as shall have been conveyed to the Association either before or after the date hereof. The general charge or assessment shall be determined or fixed during the month of November or December of each year; shall be sufficient to raise an amount which, in the judgment of the members of the Association represented by its board of directors at a meeting called for that purpose, may be required for the following calendar year; and shall be a pro-rata share allocated on the basis of one share per residential lot. Such charges or assessments shall be paid annually to the Association on or before the first day of February in each year. Members will be notified in writing prior to January 1st each year of the amount of the annual assessment to be paid.
- 4.2 **Capitol Improvements; Assessments Therefor:** The Association may construct or install additional amenities upon any lands owned by or leased to it, and may make capitol expenditures for such purposes. Funds for such expenditures may be derived from the general annual charge levied pursuant to Section 4.1 hereof, or from any special assessment which may be levied as follows: after dwellings have been built on all of the lots in the Subdivision such assessments for capitol improvements may be levied if approved unanimously by the residents of the Subdivision and a written instrument executed by them indicating the exact nature of the capitol improvement, cost, share per resident to be paid, method and dates of payment.
- 4.3 **Assessments to Obtain Compliance with Restrictions:** All lots shall also be subject to special assessment 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 any such lot, and for caring for vacant, unimproved or unkempt lots and removing weeds, grass or any other unsightly or undesirable objects therefrom. Such special assessments shall be due and payable ninety (90) days after the required affirmative note of the Board of Directors of the Association.
- 4.4 **Assessments and Charges Attendant to Sewage Disposal:** So long as the Subdivision is serviced by a community sewage holding tank and sewer laterals owned by the City, the following will apply:
- A. Each dwelling owner shall cause to be installed on the sewer discharge line from the dwelling a metering device to measure the volume of sewage discharged into the holding tank.

1) Each resident will receive a monthly statement from the Association charging him a proportionate share of the cost of waste removal from the holding tank for the prior month based upon the relationship the amount discharged from his dwelling bears to the total amount removed.

2) Enforcement of collection shall be dictated by the Subdivision Agreement executed between the Developers and the City.

3) Residents will pay such charges appearing on the monthly statement within ten (10) days of receipt.

4.5 Community Water System: If in accordance with 2.13 herein, the owners of 80% of the lots in the Subdivision decide to install a community well water system rather than individual wells, and, provided such decision is made prior to construction of the public street, the Developers shall have constructed, and each lot owner shall pay, a pro-rata share of the cost of such well water system.

4.6 Water Line and Sewer Collection System: Each lot owner shall be responsible for installation of approved water and sewer lines from dwelling to lot line connection with the community system(s) at his expense.

4.7 Collection and Enforcement: The right to collect or enforce the collection of charges, fees or assessments detailed herein is hereby delegated exclusively to the Developers prior to construction of dwellings on all lots in the Subdivision and the Association thereafter. The owners of lots, and any portions thereof, shall be personally obligated to pay such charges, fees, assessments and special assessments upon lots owned by them. All such charges, fees and assessments levied by the Association pursuant to this Article IV, which are unpaid when due, and any charge which may be levied by the City for maintenance of open space pursuant to section 4.8 thereof which charge is not paid at the date due specified by the City in its statement therefor, shall bear interest at the rate of ten percent (10%) per annum from the date of such statement, and such charge and interest shall, from that time on become a lien upon the lot until paid. The Association shall have the exclusive right and power to collect or enforce the collection, after all dwellings have been constructed in the Subdivision (prior to that time, the Developers) of all charges, annual assessments, fees and special assessments imposed by it by reason of this Article IV, 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, fees or special assessments arising by virtue of this Article IV 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, fees or special assessments and similar taxes by the City. The Association may bring an action at law against any owner personally obligated to pay the same, or to foreclose the lien for such charge against any lot. Any such foreclosure action shall be brought in the same manner as an action to foreclose a real estate mortgage. If the Association retains an attorney to enforce any such delinquent charge, all attorney's fees and any court costs incurred shall be added to and become a part of such charge.

4.8 Maintenance of Open Space: if the Association shall fail to maintain any land or outlots in the City of Muskego conveyed to it, or if the Association shall cease to have the legal duty to maintain any property to which it holds title, the owners of all lots in the Subdivision shall be responsible, on a proportionate basis as set forth for the general annual charge in Section 4.1 of this Article IV, for the maintenance of such property. If such owners shall thereafter fail to maintain such open space, the City 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 platted lot in the Subdivision proportionate shares, allocated as provided in Section 4.1 of this Article IV, for the cost of such maintenance. For such purpose, the Subdivision shall be deemed to constitute a special assessment district.

ARTICLE V

THE ASSOCIATION

5.1 Membership: Every person or entity who is a record owner of fee title to a lot in the Subdivision shall be a member of the Association, provided that no person or entity who holds an interest merely as security for the performance of an obligation shall be a member but in such case the owner of equitable title shall be the member.

5.2 Management: until such time as dwellings are constructed on all lots in the Subdivision, the Developers shall manage the Association and act as its Board of Directors. After all dwellings have been constructed, the Association shall be managed by a Board of Directors composed of three residents elected by a majority of the residents. All directors shall be elected annually by the membership of the Association.

5.3 Levy of Annual Charge: the amount of each general annual charge or assessment levied pursuant to Section 4.1 hereof shall be approved by majority votes, determined in accordance with Section 5.4 hereof, of members present or represented at an annual or special meeting of members of the Association, both (1) as to all such members so present or represented, and (2) as to the members so present or represented who own single-family lots, voting as a class.

5.4 Voting Rights: members of the Association shall have one vote per lot not including outlots. Lots held in joint or co-ownership shall vote as a unit, one vote per lot. No tenant shall be a member of the Association or entitled to vote.

ARTICLE VI

MISCELLANEOUS

6.1 Term: This Declaration shall run with the land and shall be binding upon all persons claiming under the Developers for a period of ten years from the date this Declaration is recorded. After the expiration of such ten year period, this Declaration shall be automatically renewed for successive periods of ten years, unless there is recorded an instrument executed by the owners of at least 80% of the lots subject hereto for the purpose of terminating this Declaration, in which case this Declaration shall terminate at the end of the initial or renewal term which next expires following the recording of such instrument of termination.

6.2 Amendment: this declaration may be amended at any time after all the lots in the subdivision have had dwellings constructed on them subject to the approval of the City of Muskego and by the owners of at least 80% of the lots and the recording of same.

6.3 Enforcement: until such time as all lots in the Subdivision have dwellings constructed on them, only the Developers shall have the right to enforce the provisions hereof (except as to the rights of the City under these Declarations), which they may do by proceedings at law or in equity, either to restrain or to recover damages for any violation or attempted violation of any provision of this Declaration, or for both such remedies. Thereafter such rights shall pass to the Association. However, if any member of the Association in good standing shall file with the Association a written petition for the commencement by it of proceedings against any such violation or attempted violation and the Association shall fail to act upon such petition, then such petitioner may, within a period of six months after filing such petition, commence an action or proceedings based upon any injury to his individual rights arising from the violation or threatened violation described in such petition.

6.4 Severability: invalidation of any one or more of these covenants by judgment or court order shall in no wise affect any of the other provisions, which other provisions shall nevertheless remain in full force and effect.

IN WITNESS WHEREOF, the Developers have executed this instrument on the date first above written.

Witnesses as to Developers

Developers

[Signature]
[Signature]