

DECLARATION OF COVENANTS AND RESTRICTIONS

THIS DECLARATION, made this 10th day of April, 1979, by JAMES V. BURKHARD, INC., a Wisconsin corporation, hereinafter called "Developer",

WITNESSETH:

WHEREAS, Developer is the owner of the real property in Dane County, Wisconsin described in Exhibit A attached to this Declaration and other contiguous real property and desires to create thereon a planned community with permanent open spaces for the benefit of the said community and with a planned mix of housing types and facilities; and

WHEREAS, Developer desires to provide for the preservation and enhancement of the property values, amenities, environment and opportunities in said community and to this end and in order to insure the best use of the land and most appropriate ecological development and to prevent the erection of poorly designed or constructed improvements, desires to subject said real property together with such additions as may hereafter be made thereto (as provided in Article II) to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer deems it desirable, to accomplish these objectives, to create an agency to which should be assigned the powers of owning, maintaining and administering the community properties and facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created, and promoting the recreation, health, safety and welfare of the residents; and

WHEREAS, Developer has incorporated under the laws of the State of Wisconsin the Oakbridge Community Services Association, Inc. as a nonstock, nonprofit corporation for the purpose of exercising the functions aforesaid;

NOW, THEREFORE, the Developer declares that the real property described in Exhibit A, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as "covenants and restrictions") hereinafter set forth.

ARTICLE I

Definitions

1.1 "Declaration" shall mean the covenants, conditions and restrictions and all other provisions herein set forth in this entire document, as same may from time to time be amended.

1.2 "Association" shall mean and refer to Oakbridge Community Services Association, Inc., its successors and assigns.

1.3 "Developer" shall mean and refer to James V. Burkhard, Inc., and its assigns, together with any successor to all or substantially all of its business of developing the Properties.

1.4 "The Properties" shall Mean and refer to all real property which becomes subject to the Declaration, together with such other real property as may from time to time be annexed thereto under the provisions of Article II hereof.

1.5 "Common Area" shall mean and refer to those areas of land shown as outlots on any recorded subdivision plat of the Properties or so described as to use in a deed or other conveyance from Developer, and improvements thereto, which are intended to be devoted to the common use and enjoyment of the members.

1.6 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties, a condominium unit where such may occur and an apartment unit where such may occur, with the exception of Common Area as heretofore defined.

1.7 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot; except that as to any Lot which is the subject of a land contract wherein the purchaser is in possession the term "Owner" shall refer to such person instead of the vendor.

1.8 "Parcel" shall mean and refer to all platted subdivisions, declared condominiums or apartment buildings which are subject to the same Supplementary Declaration.

1.9 "Supplementary Declaration" shall mean any declaration of covenants, conditions and restrictions which may be recorded by the Developer, which extends the provisions of this Declaration to a Parcel and contains such complementary provisions for such Parcel as are herein required by this Declaration.

1.10 "Book of Resolutions" shall mean and refer to the document containing rules and regulations and policies adopted by the Board of Directors as same may be from time to time recorded and amended.

ARTICLE II

Property Subject to This Declaration Additions Thereto

2.1 Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Dane County, Wisconsin and is more particularly described on Exhibit A. The term "existing property" as used in this Declaration shall refer to all property which is then subject to the provisions hereof.

2.2 Additions to Existing Property. Added properties may become subject to this Declaration in the following manner:

(a) Additions by the Developer. The Developer, its successors and assigns shall have the right, but not any obligation, to bring within the scheme of this Declaration additional properties in future stages of development which are a portion of those lands described in Exhibit B or which are contiguous (defined as without intervening private land) to the lands described in Exhibit B by executing and recording with the Register of Deeds for Dane County, Wisconsin one or more Supplementary Declarations of covenants and restrictions with respect to the additional property. Under no circumstances shall this Declaration or any Supplemental Declaration (except as specifically agreed therein) bind the Developer, its successors and assigns, to make any additions.

(b) Other Additions. Lands other than those described in Exhibit B or which are contiguous to those described in Exhibit B may be annexed to the Existing Property upon approval in writing of the Developer and of the Association, pursuant to a majority of votes of the Owners who are voting in person or by proxy at a regular meeting of the Association or at a meeting duly called for this purpose. The additions authorized under this subsection (b) shall be made by the Association executing and recording with the Register of Deeds of Dane County, Wisconsin one or more Supplementary Declarations of covenants and restrictions with respect to the additional property.

(c) Mergers. Upon a merger or consolidation of another association with the Association, its properties, rights and obligations may, as provided in its Articles of Incorporation, by operation of law be transferred to another surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may by operation of law be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except as hereinafter provided.

ARTICLE III

Membership and Voting Rights

3.1 Members. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation, such as a land contract vendor whose purchaser is in possession. Such membership shall be appurtenant to and may not be separated from ownership of any Lot. Every lessee of a Lot who holds a written lease having an initial term of at least 12 months shall also be a member of the Association.

3.2 Voting Rights. The Association shall have two classes of voting membership:

(a) Class A. Class A members shall be all Owners of Lots and shall be entitled to one vote for each Lot owned.

(b) Class B. The Class B member shall be the Developer, who shall have one vote. The Class B membership shall cease upon written notice to the Association no sooner than December 31, 1980 and no later than December 31, 1987.

When more than one person holds interest or interests in any Lot, the vote shall be exercised as they among themselves determine. Any person or entity qualifying as a member of more than one class, may exercise those votes to which he is entitled for each such class of membership.

3.3 Proxies. The Class A and Class B members may give proxies for voting.

ARTICLE IV

Common Area

4.1 Obligations of the Association. The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto, if any), and shall keep the same in good, clean, attractive and sanitary condition, order and repair.

4.2 Members' Easement of Enjoyment. Subject to the provisions herein, every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, and every Member shall have a right of enjoyment in the Common Area.

4.3 Extent of Members' Easements. The Members' easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to establish reasonable rules and to charge reasonable admission and other fees for the use of the Common Area;

(b) The right of the Association to suspend the right of an Owner to use the recreational facilities, if any, for any period during which any assessment against his Lot remains unpaid for more than 30 days after notice; the right of the Association to suspend the right of a Member to use the recreational facilities, if any, for a period not to exceed 60 days for any other infraction of this Declaration or the Book of Resolutions;

(c) The right of the Association to mortgage any or all of the facilities constructed on the Common Area for the purposes of improvements or repair to Association land or facilities pursuant to approval of the Class B member and of two-thirds of the votes of the Owners who are voting in person or by proxy at a regular meeting of the Association or at a meeting duly called for this purpose;

(d) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by the Class B member and two-thirds of the Owners agreeing to such dedication or transfer has been recorded.

4.4 Delegation of Use. Any Member may delegate his right of enjoyment to the Common Area and facilities to the members of his family and to his guests subject to such general regulations as may be established from time to time by the Association, and included within the Book of Resolutions.

4.5 Damage or Destruction of Common Area by Owner. In the event any Common Area is damaged or destroyed by an Owner or any of his guests, tenants, licensees, agents or member of his family, such Owner does hereby authorize the Association to repair said damaged area; the Association shall repair said damaged area in a good workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association in the discretion of the Association. The amount necessary for such repairs shall become a Special Assessment upon the Lot of said Owner.

4.6 Title to Common Area. The Developer hereby covenants that it shall convey the Common Area to the Association, free and clear of all liens and financial encumbrances, not later than two years from the date such Common Area or portion thereof is subjected to this Declaration. Members shall have all the rights and obligations imposed by the Declaration with respect to such Common Area, except that the Association shall not be liable for payment of insurance and maintenance costs for such Common Area until title is conveyed.

ARTICLE V

Covenant For Maintenance Assessments

5.1 Creation of the Lien and Personal Obligation of Assessments. The Developer hereby covenants, and each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the following: (i) annual general assessments or charges, (ii) special assessments for capital improvements or extraordinary expenses, and (iii) annual or special parcel assessments or charges, such assessments to be established and collected as hereinafter provided.

All such assessments, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

5.2 General Assessment.

(a) Purpose of Assessment. The general assessment levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the improvement, maintenance and operation of the Common Area and facilities, if any.

(b) Basis for Assessment.

(i) Residential Lots. Each Lot which has been conveyed to an Owner who is not the Developer shall be assessed at a uniform rate.

(ii) Developer-owned Property. To the extent the Class B Member owns property which has been certified for occupancy, such property shall be assessed as provided above from and after January 1, 1980. The Class B Member shall also pay an annual assessment on the aggregate of all unimproved property it owns which is subject to this Declaration in an amount equal to 125 times the annual general assessment rate for residential lots for that year, less one-half of the previous year's accrued general assessment income from residential lots; provided that the assessment under this section shall not be less than zero nor shall it serve to reduce the assessment levied on property which has been certified for occupancy. The first year's assessment shall be prorated according to the number of months remaining in the year.

(c) Maximum Annual Assessment.

(i) Until January 1, 1982, the maximum annual general assessment shall be \$25.00 per Lot.

(ii) From and after January 1, 1982, the Board of Directors may increase the maximum annual assessment rate by not more than 10% of the maximum for the current fiscal year, to become effective the first day of the next fiscal year.

(iii) From and after January 1, 1982, the assessment basis and/or the maximum annual general assessment may be changed by a vote of the Class B Member and two-thirds majority of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

(d) Method of Assessment. By a majority vote of the directors, the Board shall fix the annual assessment upon the basis provided above and at an amount not in excess of the current maximum, provided however, that the annual assessment shall be sufficient to meet the obligations imposed by the Declaration. The Board shall set the date(s) such assessment shall become due.

5.3 Parcel Assessments.

(a) Purpose of Assessment. Parcel assessments shall be used for such purposes as are authorized by the Supplementary Declaration for the given Parcel.

(b) Method of Assessment. The assessment shall be levied by the Association against Lots in a Parcel, using the basis set forth in the Supplementary Declaration for the given Parcel, and collected and disbursed by the Association. By a majority vote of the directors, the Board shall fix the annual parcel assessment for each Parcel, and date(s) such assessments become due, with the advice of the Owners of Lots in that Parcel.

5.4 Special Assessment for Capital Improvement or Extraordinary Expense. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year and not more than the next two succeeding years for the purpose of defraying, in whole or in part: (i) the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, and/or (ii) extraordinary expenses incurred in the maintenance and operation of the Common Area and facilities, if any; provided that any such assessment shall have the assent of the Class B Member and two-thirds of the votes of the Owners who are voting in person or by proxy at a special meeting duly called for that purpose.

5.5 Special Parcel Assessment for Capital Improvement or Extraordinary Expense. In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment against the Lots of the Parcel for the purpose of defraying, in whole or in part: (i) the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Parcel, including fixtures and personal property related thereto, and/or (ii) extraordinary expenses incurred in the maintenance and operation of the Common Area and facilities, if any; provided that any such assessment shall have the assent of the Class B Member and two-thirds of the votes of the Owners of Lots in the Parcel who are voting in person or by proxy at a meeting duly called for this purpose.

5.6 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence within a Parcel on the date of conveyance of the first Lot in the Parcel to an Owner who is not the Developer. The initial annual assessment on any Lot shall commence on, and be prorated to, the date of conveyance of the Lot to an Owner who is not the Developer or on the date of certification of the Lot for occupancy whichever first occurs.

5.7 Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within 30 days after the due date may upon resolution of the Board bear interest from the due date at a percentage rate no greater than the current statutory maximum annual interest rate, to be set by the Board for each assessment period. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property in the same manner, and subject to the same requirements, as a foreclosure of mortgages on real property in Wisconsin, and there shall be added to the amount of such assessment actual costs and attorney's fees incurred to collect the assessment. The Association may bid in the Property at foreclosure sale, and acquire and hold, lease, mortgage and convey the same. If the Association has provided for collection of annual or parcel assessments in installments, upon default in the payment of any one or more installments, the Association may accelerate payment and declare the entire balance of said assessment due and payable in full. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

5.8 Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (i) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (ii) all Common Areas; (iii) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

5.9 Annual Budget. By a two-thirds vote of the directors, the Board shall adopt an annual budget for the subsequent fiscal year, which shall provide for allocation of expenses in such a manner that the obligations imposed by the Declaration and all Supplementary Declarations will be met.

5.10 Joint and Several Liability of Grantor and Grantee. Upon a voluntary conveyance, the grantee of a Lot shall be jointly and severally liable with the grantor for, all unpaid assessments against the grantor as provided in this Article up to the time of the conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the Association setting forth the amount of such unpaid assessments and any such grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for, any unpaid assessment against the grantor pursuant to this Article in excess of the amount therein set forth. If the Association does not provide such a statement within 10 business days after the grantee's request, it is barred from claiming under any lien which is not filed prior to the request for the statement against the grantee.

ARTICLE VI

Architectural Control

6.1 The Architectural Review Board. An Architectural Review Board consisting of three or more persons shall be appointed by the Class B Member. At such time as the Class B membership expires, this Board shall be appointed by the Board of Directors.

6.2 Purpose. The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Properties and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography.

6.3 Conditions. No improvements, alterations, repairs, change of paint colors, excavations, changes in grade or other work which in any way alters the exterior of any structure or any Lot from its natural or improved state existing on the date such property was first conveyed in fee by the Developer to an Owner shall be made or done without the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, residence or other structure shall be commenced, erected, maintained, improved, altered, made or done without the prior written approval of the Architectural Review Board.

6.4 Procedures. The Owner shall submit to the Architectural Review Board plans and specifications showing the nature, kind, shape, height, materials and location of any proposed improvements, alterations or changes. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within 30 days after plans and specifications in writing have been submitted to it, in accordance with adopted procedures, approval will be deemed granted. The applicant may appeal an adverse Architectural Review Board decision to the Board of Directors who may reverse or modify such decision by a two-thirds vote of the directors.

ARTICLE VII

Use of Property

7.1 Protective Covenants.

(a) The property in a Parcel shall be subject to such protective covenants as are set forth in the Supplementary Declaration for that Parcel.

(b) Other Restrictions. Upon conveyance of the first Lot to an Owner, the Architectural Review Board shall adopt general rules to implement the purposes set forth in Section 6.2 and interpret the covenants in this section, including but not limited to rules to regulate animals, antennas, signs, storage and use of recreational vehicles, storage and use of machinery, use of outdoor drying lines, trash containers, planting, maintenance and removal of vegetation on the Properties. Upon or before conveyance of the first Lot in any Parcel added to the Properties, the Architectural Review Board shall adopt general rules appropriate to that Parcel. Such general rules may be amended by a two-thirds vote of the Architectural Review Board, following a public hearing for which due notice has been provided, and pursuant to an affirmative vote of two-thirds of the Board of Directors. All such general rules and any subsequent amendments thereto shall be placed in the Book of Resolutions.

(c) Exceptions. The Architectural Review Board may issue temporary permits to except any prohibitions expressed or implied by this section, provided the Board can show good cause and acts in accordance with adopted guidelines and procedures.

7.2 Maintenance of Property. Each Owner shall keep all Lots owned by it, and all improvements therein or thereon, in good order and repair and free of debris including, but not limited to the seeding, watering, and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements, all in a manner and with such frequency as is consistent with good property management.

7.3 Developer's Easement to Correct Drainage. For a period of five years from the date of conveyance of the first Lot in a Parcel, the Developer reserves a blanket easement and right on, over and under the ground within that Parcel to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary, following which the Developer shall restore the affected property to its original condition as nearly as practicable. The Developer shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Developer an emergency exists which precludes such notice.

7.4 Supplementary Declaration for Exhibit A Property. A Supplementary Declaration will also be recorded for the property described in Exhibit A setting forth responsibilities of the Association for such property as a Parcel, and further, rights and covenants affecting such Parcel.

ARTICLE VIII

General Provisions

8.1 Duration. The covenants and restrictions of this Declaration shall run with and bind the land for a term of 20 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten years, unless at the expiration of the 20-year term or of any ten-year extension period the covenants and restrictions are expressly terminated by an instrument signed by not less than 75% of the Owners and by the Developer, as long as the Developer owns any of the land described on Exhibit B. A termination must be recorded.

8.2 Amendment. This Declaration may be amended at any time by an instrument approved by the Class B Member and by not less than 75% of the Owners. Any amendment must be recorded.

8.3 Enforcement. The Association, any Owner or the Developer shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or thereafter imposed by the provisions of this Declaration and of Supplementary Declarations. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

