

**CERTIFICATE OF RESTRICTIONS AND COVENANTS
AMENDED MAY 23, 1998**

Original Covenants and Restrictions recorded 12-5-85 in volume 357 of Records on Page 400 as Document No. 122815.

Amended Covenants and Restrictions recorded 11-19-94 in volume 632 of Records on Page 9865 as Document No. 297539.

I, Robert W. Lind, Treasurer of Mariner Hills Property Owners Association, Inc. a non-profit corporation organized in the State of Wisconsin, hereby certify:

The foregoing amended restrictions and covenants, comprising six pages, is a true & correct copy of the Restrictions and Covenants as amended May 23, 1998 by members of Mariner Hills Property Owners Association, Inc., at the 1998 annual meeting where a simple majority of the owners approved said amendment.

Dated this 5th day of June, 1998.

 Signed
Robert W. Lind

STATE OF ILLINOIS)
)
COUNTY OF C O O K)

Personally came before me this 5th day of June, 1998, the above named Robert w. Lind, Treasurer of Mariner Hills Property Owners Association, Inc. to me known to be the person who executed the foregoing instrument and acknowledge the same.

 Signed
My Commission expires _____

This certification, as well as the attached amended Restrictions and Covenants was drafted by Robert W. Lind.

MARINER HILLS PROPERTY OWNERS ASSOCIATION

Restrictions & Covenants

As amended 5/23/98

**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 Mariner Hills Property Owners Association, its successors and assigns.
- 1.3 "Developer" shall mean and refer to Lakeland of Wisconsin, 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 those areas of land and improvements thereto conveyed by Developer to the Association which are intended to be devoted to the common use and enjoyment of the owners of the properties.
- 1.5 "Common Areas" shall mean and refer to those areas of land and improvements thereto conveyed by Developer to the Association which are intended to be devoted to the common use and enjoyment of the owners of the properties.
- 1.6 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision of land division map or any certified survey map of the properties, with the exception of Common Areas as heretofore defined.
- 1.7 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, as 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.

ARTICLE II
Property Subject to This
Declaration Additions Thereto

- 2.1 Existing Property. The real property which is and shall be transferred, sold, conveyed and occupied subject to this Declaration is located in Walworth 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. 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 contiguous (defined as without intervening private land: to the lands described in Exhibit A (the Expansion Property) by executing and recording with the Register of Deeds of Walworth County, Wisconsin one or more amendments to this Declaration with respect to the Expansion Property. Under no circumstances shall this Declaration or any amendment hereto bind the Developer, its successors and assigns to make any additions.
- 2.3 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 restriction established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties as on 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
Use Restrictions

- 3.1 Single Dwelling. No owner or occupant of a lot located within the Property shall use their property for other than a single-family resident, and shall not construct or erect any structure or structures thereon other than a family residence, a garage not to exceed 30' 24', and a tool shed not to exceed 12' x 12'. Both structures to be of like construction and finished with materials that match the main structure.
- 3.2 Signs. No signs of any kind may be erected on any portion of a lot or attached to any building or structure on a lot except such signs as may be erected by the Developer or signs designating a lot number and/or lot owner's name.
- 3.3 Appearance. No vehicles without a current license are to be parked or stored outside of enclosed areas. The term vehicles includes automobiles, motorcycles, campers, trucks, boats, snowmobiles, or articles deemed to be unsightly to the property by the Board of Directors.

ARTICLE IV
Membership and Voting Rights

- 4.1 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.
- 4.2 Voting Rights. Each property owner of record shall be entitled to one vote for each lot owned. When more than one person holds interest of interests in any

lot, the vote shall be exercised as the among themselves determine.

4.3 Proxies. Members may give proxies for voting.

ARTICLE
Rights of Members

5.1 Obligations of the Association. The Association, subject to the rights of the Owners set forth in his Declaration, shall adopt and amend rules and regulations governing the use and operation of the Common Area and the Properties and the improvements thereon which are consistent with the covenants and restrictions contained herein, and 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.

5.2 Member's 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.

5.3 Extent of Member's Easements. The member's easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association to establishing 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 an 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 any rules promulgated by the Association pursuant to this Declaration.

- (c) The right of the Association to mortgage any or all of the facilities constructed on the Common Area for the purpose of improvements or repair to Association land or facilities pursuant to approval of a two-thirds vote 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 condition as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument passes by a two-thirds vote of the owners agreeing to such dedication or transfer has been recorded.

5.4 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 (but excepting any person whose right to use the Common Area and facilities has been suspended pursuant to paragraph 5.3b), above) subject to such general regulations as may be established from time to time by the Association.

5.5 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 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.

5.6 Title to Common Area. The Developer hereby covenants that it shall record an amendment to this Declaration pursuant to paragraph 7.2b) hereof subjecting the

Common Areas to this Declaration and 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.

ARTICLE VI
Covenant for Maintenance Assessments

6.1 Creation of the Lien and Personal Obligation of Assessments. The Association hereby covenants, and each Owner of any Lot by acceptance of 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, such assessments to be established and collected as hereinafter provided, and (iii) special assessments for damage or destruction of Common Area by Owner or any other individual as set forth in paragraph 5.5 hereof. 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.

6.2 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, insurance, and operation of the Common area and facilities.

(b) Basis for Assessment. Each lot which has been conveyed by deed or land contract to an Owner shall be assessed at a uniform rate.

(c) Maximum Annual Assessment.

- (i) Until December 31, 1986, the maximum annual general assessment shall be \$78.00 per lot.
- (ii) From and after November 1, 1986, the Board of Directors by majority vote may increase the maximum annual assessment rate by not more than 15% 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, 1987 the assessment basis and/or the maximum annual general assessment may be changed by a 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 of the Board shall fix the annual assessment 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 such assessment shall become due.

6.3 Special Assessment for Capital Improvement or Extraordinary Expenses. 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 two-third of the votes of the Owners who are voting in person or by proxy at a special meeting duly called for that purpose.

6.4 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 to 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 on the Property at foreclosure sale, and acquire and hold, for collection of assessments in installments, upon default in the payment of any one or more installments, the Association may accelerate and declare the entire balance of said assessment due and payable assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

- 6.5 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments, charge and lien created herein; (i) all properties to the extent of any easement or other interest thereon dedicated and accepted by local public authority and devoted to public use; (ii) all Common Areas (iii) all properties exempt from taxation by state or local governments upon the terms and to the extent of such legal exemption. Notwithstanding any provision herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.
- 6.6 Annual Budget. By a majority 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 manner that the obligations imposed by the Declaration and all Supplementary Declarations will be met.
- 6.7 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 therefore. 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 ten 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 VII
General Provisions

- 7.1 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 the instrument signed by not less than 75% of the Owners. A termination must be recorded.
- 7.2 Amendment. This Declaration may be amended at any time by an instrument approved by not less than two-thirds of the Owners. Any Amendment shall not be effective until recorded in the office of the register of Deeds of Walworth County.
- 7.3 Enforcement. The Association, and/or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges or thereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- 7.4 Severability. Invalidation of any 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.

EXHIBIT A

Lots 1 through 127, both inclusive and Out lots 1 and 2 of Mariner Hills Subdivision located in the NW1/4-SW1/4, SW1/4-SW1/4, SE1/4-SW1/4, SW1/4-SE1/4 of Section 34, T4N, R16E, Town of LaGrange, Walworth County, Wisconsin.