

DECLARATION OF RESTRICTIONS  
AND COVENANTS FOR  
MUKWONAGO ESTATES

WAUKESHA DEVELOPMENT, INC., a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, located at Milwaukee, Wisconsin, hereinafter referred to as "Developer",

WHEREAS, the plat of Mukwonago Estates, has been recorded in the office of the Register of Deeds for Waukesha County, Wisconsin, on December 19, 1972, as Document No.837132;

KNOW ALL MEN BY THESE PRESENTS:

That said Developer is the owner of Mukwonago Estates known and described as follows:

MUKWONAGO ESTATES, being a subdivision of part of the South East One-quarter (1/4) of Section numbered Thirty-Five (35), in Township numbered Five (5) North, Range numbered Eighteen (18) East, in the Village of Mukwonago, Waukesha County, Wisconsin, and

intending to establish a general plan for the use, occupancy and enjoyment of said subdivision, said owner hereby declares that for the mutual benefit of the present and future owners of all lots in Mukwonago Estates, all lots therein shall be subject to the following restrictions:

A. Single Family Lots (Lots numbered 1 thru 181)

1. Lots 1 thru 181 inclusive are restricted to the erection of a single family residence building and attached garage.

2. The minimum living area of the single family residence is to be in accordance with and pursuant to R-4 Planned Residential Development Ordinance 9.324 of the Village of Mukwonago.

3. The minimum building setbacks are as follows:

a. Front setback: 20 foot minimum.

b. Sideyard setbacks: 10 feet and 10 feet.

4. All buildings shall have a two car attached garage.

5. All building plans and exterior design shall be approved by WAUKESHA DEVELOPMENT, INC., or its designated agent.

6. All buildings shall be completed and landscaped within one year from the date of commencement of construction.

**B. Duplex Lots (Lots numbered 182 thru 200)**

1. Lots 182 thru 200 inclusive are restricted to the erection of a two family residence building and attached garage.

2. The minimum living area of each residence within the building is to be in accordance with and pursuant to the R-4 Planned Residential Development Ordinance 9.324 of the Village of Mukwonago.

3. The minimum building setbacks are as follows:

a. Front setback: 20 foot minimum.

b. Sideyard setbacks: 10 feet and 10 feet.

4. All buildings shall have a two car attached garage.

5. All building plans and exterior design shall be approved by WAUKESHA DEVELOPMENT, INC., or its designated agent.

6. All building shall be completed and landscaped within one year from the date of commencement of construction.

**C. MULTIPLE DWELLING AREA OUT LOT**

1. The Multiple Dwelling Area Out Lot is restricted to the erection of duplexes, garden townhouses or garden apartments in accordance with the R-4 Planned Residential Development Ordinance 9.324 of the Village of Mukwonago.

2. All building plans, exterior design and landscape plans shall be approved by the Developer or his designated agent.

3. Each individual building shall be completed and landscaped within 18 months from the commencement of its construction.

**D. DURATION OF RESTRICTIONS**

The above restrictions shall be in force for a period of 35 years from date hereof and shall be deemed to run with the land and shall bind the respective owners of such lots, their heirs, successors and assigns, and may be enforced by any of the present and future owners of land in Mukwonago Estates Subdivision.

#### E. OPEN SPACE (Out Lots - Park Detail)

The Developer as part of its development of Mukwonago Estates has created various open space areas as shown on the recorded plat of Mukwonago Estates. The Developer has also created landscaped court areas within the dedicated streets. The open space areas and court areas have been developed for the common benefit and enjoyment of the owners of Mukwonago Estates as park, recreation and children's play areas. The title to the Out Lot designated private park on the recorded plat upon completion of the improvements thereon by the Developer shall be transferred to MUKWONAGO ESTATES MAINTENANCE CORPORATION. After title has been transferred to MUKWONAGO ESTATES MAINTENANCE CORPORATION the owners of lots in Mukwonago Estates shall be assessed for their just share of the expenses for maintenance and improvements, if any, of the Park Area and the landscaped court areas contained in Mukwonago Estates, and said assessments shall be on the basis as hereinafter set forth.

#### F. MUKWONAGO ESTATES MAINTENANCE CORPORATION

The Developer has deemed it desirable for the effective preservation of the values and amenities in this Subdivision to create an agency to which should be delegated and assigned the powers of maintaining and administering the open space facilities and administering and enforcing the covenants and restrictions relative to said open space and collecting and disbursing the assessments and charges hereinafter created. To this end there has been incorporated under the Laws of the State of Wisconsin as a non-profit corporation the MUKWONAGO ESTATES MAINTENANCE CORPORATION, hereinafter referred to as the "Corporation", for the purpose of exercising the functions aforesaid.

##### 1. Membership

Every person or entity who is a record owner of the fee of a lot which is subject by covenants of record to assessment by the Corporation shall be a member of the Corporation.

Every owner of one or more multiple family units or site permitting multiple family units, whether duplexes, townhouses or garden apartments which is subject by covenants of record to assessment by the Corporation shall be a member of the Corporation.

Each single and each multiple family dwelling unit site shall be assessed a pro rata share of the annual assessment by the Corporation.

No person or entity who holds an interest merely as security for the performance obligation shall be a member.

## 2. Management

The corporation shall be managed by a Board of Directors consisting of not less than three (3) members. Such directors shall be elected by the Owners of lots and multiple dwelling unit sites within Mukwonago Estates in accordance with the terms of this Declaration and the Articles of Incorporation and By-laws of the Mukwonago Estates Maintenance Corporation.

## 3. Voting Rights

The Corporation shall have two classes of voting membership.

Class A - Class A members shall be all Owners with the exception of the Developer and shall be entitled to one vote for each lot or multiple dwelling unit permitted on the site owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot or site shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot or site. There can be no split vote. Prior to the time of any meeting at which a vote is to be taken each lot or site having co-owners shall file the name of the voting co-owner with the Secretary of the Corporation in order to be entitled to vote at such meeting, unless such co-owners have filed a general voting authority applicable to all votes until rescinded.

Class B -The Class B member shall be the Developer and shall be entitled to three (3) votes for each lot or dwelling unit site within the multiple dwelling unit lot. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier;

- a. when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- b. on December 31, 1977

## 4. Annual Assessments

Each lot owner and each owner of a multiple dwelling unit site shall be subject to a general annual charge or assessment determined solely by the Board of Directors of the MUKWONAGO ESTATES MAINTENANCE CORPORATION for the purpose of defraying the costs of maintaining and administering the open space and recreational facilities. Such annual assessment shall be a pro rata share, or one share per lot or multiple dwelling unit site of the costs incurred by the Corporation to maintain the open space for the recreation, health, safety, welfare and enjoyment of its members. Said costs shall include, but not be limited to, payment of taxes, insurance, repair, replacement and additions to the improvements made upon said open space and the cost of labor, equipment, materials, management and supervision thereof.

Waukesha Development, Inc., or its assigns, shall pay its pro rata share of such costs for each platted single family lot and multiple dwelling unit site it still owns in said subdivision with the exception that it shall not be assessed on any lot it owns for additions to said improvements for which it has not consented to the construction or installation thereof.

Such annual assessment shall be levied by the Corporation as of January 1 for such year and a statement for such amount shall be mailed to the owner of each Lot as of such date and be payable on or before March 1 of each year.

The maximum annual assessment shall be Two Hundred Fifty (\$250.00) dollars per lot. Such maximum annual assessment may be changed by a majority of the votes of the members of the Corporation. The assessment, however, as established by the Corporation shall be set taking into consideration the costs of current maintenance and future needs and may be in any lesser amount than the maximum which meets those requirements. The assessment amount shall be approved by a majority of eligible members present at a special or annual meeting.

\*Section F, Paragraph 4 amended February 24, 2004.

#### 5. Special Assessments

A special assessment may be levied by the Corporation for the purpose of defraying in whole or in part the cost of any construction or reconstruction, unexpected repair or replacement of a capital improvement upon the open space if consented to by a two-thirds majority of the votes of the members of the Corporation. Waukesha Development, Inc., or its assigns, shall not be assessed for any such capital improvements for any lot or multiple dwelling unit site it owns for which it has not consented to the construction or installation thereof.

#### 6. Delinquent Assessments

If the assessments are not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, become a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives, successors and assigns. This delinquent assessment shall also be a personal obligation of the then owner of the lot or lots involved and shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of a delinquency of the rate of seven percent (7%) per annum, and the Corporation may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment, the costs of preparing and filing the complaint in such action, and a reasonable attorney's fee to be fixed by the Court together with the costs of the action.

7. Proof of Payment

The corporation shall, upon demand at any time, furnish to any lot owner a certificate in writing signed by an officer of the Corporation setting forth whether said assessments have been paid. Such certificate shall be conclusive evidence of the payment of any and all assessments therein stated to have been paid.

8. Village of Mukwonago's Contingent Right To Assume Maintenance

In the event the Village of Mukwonago shall at any future date assume the maintenance of the open space, either at the request of the Corporation or because said Corporation is not maintaining said open space to the satisfaction of the Village of Mukwonago, the Village of Mukwonago shall have the power and authority to levy and collect a special assessment annually from each lot in Mukwonago Estates for the operation and cost of maintenance of the open space or any improvements thereon within Mukwonago Estates in the same proportion as set forth in this declaration of restrictions. For these purposes Mukwonago Estates shall constitute an assessment district.

In presence of:

WAUKESHA DEVELOPMENT, INC.

STATE OF WISCONSIN

MILWAUKEE COUNTY

Personally came before me this 1<sup>st</sup> day of November, 1972, Michael D. Rosen, President and Catherine Wojnowski, Secretary of WAUKESHA DEVELOPMENT, INC. to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said corporation by its authority.