

RESTATED DECLARATION OF CONDOMINIUM
OF
WOODCREEK VILLAGE, a CONDOMINIUM

This Restated Declaration is adopted pursuant to the Condominium Ownership Act of the State of Wisconsin (hereinafter “Act”), Chapter 703. Wisconsin Statutes, as amended from time to time.

ARTICLE I

STATEMENT OF PURPOSE

The purpose of this Restated Declaration is to revise the terms of the original Declaration of Condominium of Woodcreek Village, a Condominium, recorded in the office of the Register of Deeds for Dane County (Wisconsin) in Vol 2755 of Records, pages 91 et seq., as Document Number 1704728, and the subsequent amendments to it, pursuant to which the real property described herein and all improvements located on it were submitted to condominium ownership under the Act, and to confirm this submission and the fact that the provisions hereof, as amended from time to time, shall run with the land.

ARTICLE II

DESCRIPTION, NAME, RESTRICTIONS, AND DEFINITIONS

2.01 Legal Description. The real estate subject to this Restated Declaration is owned by the Unit Owners in undivided percentage interests and is described on Exhibit I attached hereto. It is comprised of 83 townhouse units in clusters of two to four units apiece of frame construction together with a clubhouse, swimming pool, and tennis courts.

2.02 Name and Address. The name of the Condominium is “Woodcreek Village, a Condominium” and has as its address 5800-5979 Woodcreek Lane and 3302-3449 Valley Creek Circle, Middleton, Wisconsin 53562.

2.03 Covenants, Conditions, Restrictions, and Easements. The Condominium shall be, on the date this Restated Declaration is recorded, subject to:

- (1) Easements and rights in favor of gas, electric, telephone, water, and other utilities;
- (2) Other easements, covenants, and restrictions herein and as shown on the condominium plat for Woodcreek Village;
- (3) All municipal, zoning, and building ordinances; and
- (4) All other governmental laws and regulations applicable to the Condominium.

2.04 Definitions. Except as modified herein, the definitions contained in the Act shall govern in the interpretation of this Restated Declaration.

ARTICLE III

UNITS

3.01 Definition. “Unit” shall mean a part of the Condominium intended for any type of independent use, including one or more cubicles of air at one or more levels of space or one or more rooms of enclosed spaces located on one or more floors (or parts thereof) in a building.

3.02 Description. A Unit in Woodcreek Village Condominium shall include:

- (1) That cubicle or cubicles of air whose exterior boundaries are: vertical planes, the elevations of which coincide with the interior face of the studs supporting the drywall or the inner face of the foundation walls in basement areas; upper boundaries being the planes of the lower face of the joists or rafters supporting the ceiling on the highest story of the unit; and lower boundaries being the

upper surface of the ground underlying the lowest story of the unit. All units shall include a perpetual right of ingress and egress.

(2) Any and all appliances and other fixtures contained in the Unit which items may include, but not be limited to, refrigerator, dishwasher, disposal, laundry equipment, range, compactor, cabinets, carpeting, and floor covering.

(3) The following items serving the particular Unit although they may be outside the defined cubicle of air:

(a) All doors, windows and screens, their casements, and their locking mechanisms and hardware;

(b) All wall and ceiling mounted electrical fixtures and recessed junction boxes serving them;

(c) All floor, wall, baseboard, or ceiling electrical outlets and switches and the junction boxes serving them;

(d) All plumbing and electrical fixtures and appliances and the wiring, piping, valves, and other connecting and controlling materials and devices related to service to the unit lying between the meter and the boundary of the unit;

(e) The cable television outlet, if any, to the Unit and the junction box serving it;

(f) The individual furnaces or ducting, the radiator, and the piping providing heating to the Unit, and the controls for the heating system for the Unit;

(g) All air conditioning and ventilation equipment and systems serving the Unit, including all ducts, wiring, compressors, fans, housings, and controlling materials and devices;

(h) The lines bringing natural gas or similar fuel to the Unit which lines extend from the utility meter to the boundary of the Unit;

(i) The fireplace, if any, serving the Unit;

(j) All enclosed areas adjacent to and serving the unit exclusively including the flooring, roof and ceiling, and screens or other enclosures;

(k) The garage doors on the attached garage space serving the Unit and any portion of the concrete garage floor or apron extending beyond the vertical plane of the Unit; and

(l) Any sump pump serving the Unit and any equipment or devices associated with it.

(4) Specifically not included as part of the Unit are those structural components of the building, not specifically included in the Unit under (3) above, which lie within the cubicle or cubicles of air comprising the Unit. The purposes of this subsection, partition walls shall not be considered structural components.

3.03 Identification. Unites shall be identified by the building, street number, or location, the determination of which alternative shall be as specified on the “Condominium Plat” of Woodcreek Village Condominium, and amendments to it, which have been previously recorded.

ARTICLE IV

COMMON ELEMENTS

4.01 Definition. “Common Elements” shall mean all of the Condominium except the Units.

4.02 Description. The Woodcreek Village Condominium Common Elements shall include the land described in Exhibit I which is not included in the definition of Unit, and all tangible personal property used in the operation, maintenance, and management of the Condominium.

4.03 Use. Except as otherwise provided herein, and subject to the By-laws of the “Association”, as hereinafter defined, and subject to any rules and regulations adopted by the Association, the Common Elements shall be available for the use and enjoyment of or service to owners of all Units.

4.04 Ownership. There shall be appurtenant to each unit an equal, undivided interest in the Common Elements being 1/83 or approximately 1.2%.

ARTICLE V

LIMITED COMMON ELEMENTS

5.01 Definition. “Limited Common Elements” shall mean those Common Elements identified in this Restated Declaration and on the Condominium Plat as reserved for the exclusive use of one or more but less than all of the owners of Units.

5.02 Description. Limited Common Elements shall include unenclosed patios, decks and balconies, whose use shall be limited to the unit to which they are adjacent and through which there is access to them, and the driveway from each unit’s garage to the public street, whose use shall be limited to the unit whose garage is served by them.

5.03 Use. Except as otherwise provided herein, the manner of use of the Limited Common Elements shall be determined solely by the Unit Owner or Owners, who have the exclusive use of such Limited Common Elements, subject to the rules adopted relating to the use of the Condominium.

ARTICLE VI

USES

The Units, Limited Common Elements, and Common Elements of the Condominium shall be used for residential purposes only, and shall not be used for any trade or business, provided residents may engage in home occupations as permitted by the Middleton ordinances so long as such occupation does not involve the employment of anyone to work at the Condominium, generate excessive traffic, or constitute a nuisance to other owners and residents. The leasing or renting of a Unit for residential purposes for an initial term of at least six (6) months shall not be considered a violation of this provision; provided, however, that no Unit shall be leased or rented for hotel or transient purposes. Notwithstanding anything to the contrary contained herein, the use of the Units, Limited Common Elements, and Common Elements shall comply with the City of Middleton Ordinances and any other restrictions as contained in the Association By-laws and any rules and regulations adopted by the Association. No use may unreasonably interfere with the use and enjoyment of the Common Elements or other Units by other Unit Owners. There shall be no storage of material, and there shall be no conduct of any activity, which would increase the insurance rates on the Condominium. Any and all attorney fees and other expenses incurred by the Association in the enforcement of this provision shall be reimbursed by the Unit Owner in violation and may be assessed against such Owner's Unit.

ARTICLE VII

UNIT OWNER

Any “Unit Owner” shall mean a person, combination of persons, partnership, or corporation, who holds legal title to a Unit; provided, however, that in the even equitable ownership has been conveyed in the Unit by means of a land contract or other similar document, “Unit Owner” shall mean the land contract purchaser.

ARTICLE VIII

ASSOCIATION

8.01 Definition. “Association” shall mean the Woodcreek Village Condominium Unit Owners Association, Inc., a Wisconsin non-stock corporation.

8.02 Duties and Obligations. All Unit Owners shall be entitled to become and shall be required to become members of the Association and subject to its Articles of Incorporation, By-laws, and rules and regulations adopted by it for the use and management of the Condominium. By becoming members of the Association, Unit Owners automatically assign the management and control of the Common Elements of the Condominium to the Association.

8.03 Voting. Each Unit shall be entitled to one (1) vote in the Association, subject, however, to suspension as provided herein. If a Unit is owned by more than one (1) person, each person shall be a member of the Association but each Unit shall have one (1) indivisible vote. As provided in Article VII hereof, one who holds a land contract purchaser’s interest or any other such equitable interest in a Unit shall be considered the Unit Owner. However, for purposes of being eligible to vote as a member of the Association, the land contract or other document establishing the equitable interest, or an instrument providing constructive notice of such interest, must be recorded in the Dane County Register of Deeds office.

ARTICLE IX

REPAIRS AND MAINTENANCE

9.01 Units. Each Unit Owner shall be responsible for the decoration, furnishing, housekeeping, maintenance, repair, and replacement of the Owner's Unit, subject to the rules adopted relating to the Condominium.

9.02 Limited Common Elements. Each Unit Owner shall be responsible for the decoration, furnishing, housekeeping, general cleanliness, and presentability of the Limited Common Elements which use is reserved to the Unit, subject to the rules adopted relating to the Condominium. In performing the obligations hereunder the Unit Owner shall not do or permit anything to be done or to remain on or about the Limited Common Elements which adversely affects the external appearance of the condominium.

9.03 Common Elements. Except as hereinabove provided, the Association shall be responsible for the decoration, furnishing, housekeeping, maintenance, repair, and replacement of the Common Elements.

9.04 Entry of Association. The Association and its management company, acting in its behalf, may enter any Unit and Limited Common Elements at reasonable times and under reasonable conditions when necessary in connection with any maintenance, construction, or repair of public utilities and for any other matter for which the Association is responsible. Prior notice to the Unit Owner shall be attempted, and the entry shall be made with as little inconvenience to the Unit Owner as possible under the circumstances. Any damage caused thereby shall be repaired by the Association and shall be treated as a "Common Expense", as hereinafter defined.

ARTICLE X

STRUCTURAL CHANGES

10.01 Limitations. A Unit Owner may make improvements or alterations within his/her Unit; provided, however, such improvements or alterations do not impair the structural soundness or integrity or lessen the support of any portion of the Condominium, do not reduce the value of the Condominium, and do not impair any easement. A Unit Owner may not change the exterior appearance of a Unit or any portion of the Common Elements (including Limited Common Elements) without obtaining the written permission of the Association Board of Directors. Furthermore, any approved improvements or alterations must be accomplished in accordance with applicable laws and regulations, must not unreasonably interfere with the use and enjoyment of other Units and Limited Common Elements or the Common Elements, and must not be in violation of any underlying mortgage, land contract, or similar security interest.

10.02 Expenses. All expenses involved in such improvements or alterations, including expenses to the Association, which it may charge as a special assessment to the affected Units, shall be borne by the Unit Owners involved. The Unit Owners involved shall hold the Association and all other Unit Owners harmless from any cost or expense and from any liens arising as a result of such improvements or alterations.

ARTICLE XI

INSURANCE

11.01 Property Insurance. The Association shall maintain hazard insurance on the property of the Condominium including the Common Elements, Limited Common Elements and Units as originally built and subsequently improved. Notwithstanding the definition of Unit in Article III hereof, for insurance purposes a Unit shall include fixtures, improvements and alterations comprising a part of a building, refrigerators, air conditioners, cooking ranges, dishwashers, laundering, security or housekeeping systems contained within a Unit and owned by a Unit Owner.

11.02 Liability Insurance. The Association shall maintain comprehensive general liability insurance against all claims commonly insured against and in such amounts as the Association shall deem suitable; provided, however, the minimum limits for bodily injury and property damage shall be \$1,000,000. The policies shall include standard coverage for the errors and omissions of Association directors or officers. Such policies shall also contain “severability of interest” endorsements which shall preclude the insurer from denying the claim of a Unit Owner because of negligence on the part of the Association or other Unit Owners.

11.03 Fidelity Insurance. The Association shall maintain fidelity coverage against dishonest acts by any person responsible for handling the funds belonging to or administered by the Association. The Association shall be the named insured, and the insurance shall be in an amount of not less than the amount of funds that will be in the custody of the Associations (or its manager) any one time, or such amount as will qualify under the Federal National Mortgage Association guidelines for condominiums.

11.04 Administration. Any and all premiums associated with the insurance purchased by the Association shall be Common Expenses. The Association shall act as the trustee for the purpose of obtaining insurance coverage and for the receipt, application, and disbursement of proceeds. All insurance shall be obtained from generally acceptable insurance carriers, which carriers must meet the guidelines established by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

11.05 Unit Owner’s Insurance. Maintenance of insurance by the Association shall not relieve or prohibit Unit Owners from maintaining insurance with limits in excess of those maintained by the Association or with additional insured risks. Unit Owners are encouraged to submit copies of the disclosure materials to their insurance carriers in order to ensure adequate property and liability coverages on their personal property, Units, and Limited Common Elements appurtenant to such Units.

11.06 Disbursement. Insurance proceeds shall first be disbursed by the trustees for the repair or restoration of the damaged Common Elements, and the Unit Owners and Mortgagees shall not be entitled to receive payment of any portion of the insurance proceeds unless the Association has determined not to rebuild, or a court has ordered partition of the Condominium property, or there is a surplus of insurance proceeds after the Common Elements have been completely repaired or restored.

ARTICLE XII

REPAIR OR RECONSTRUCTION

In the event of the damage or destruction of the Common Elements, Section 703.19, Wisconsin Statutes, as amended from time to time, shall control.

ARTICLE XIII

EMINENT DOMAIN

In the event of a taking of all or any part of the Common Elements by eminent domain, Section 703.19, Wisconsin Statutes, as amended from time to time, shall control.

ARTICLE XIV

COMMON EXPENSES

14.01 Liability of Unit Owner.

(1) Each Unit Owner shall be liable for the share of expenses of the Association assessed against such Owner's Unit. These expenses ("Common Expenses") shall be allocated in equal shares among the Units.

(2) In addition to common expenses payable by regular and special assessments, any person or persons, upon receiving title to any Unit, shall pay an initial, non-refundable contribution to the Association in an amount equal to two months' regular assessments as of the date of passage of title. Payment of this initial contribution shall be a precondition to the Unit Owner exercising any rights in the Association or in the recreational amenities of the Condominium. The purpose of this initial contribution is to help fund and maintain operational and repair reserves for the Association.

14.02 Assessment: Payment.

(1) Regular assessments shall be based upon the annual budget adopted by the Association. They shall be assessed as of January 1 of each year, allocated among the Units in accordance with sec. 14.01, and are payable in accordance with subsec. (2). Special assessments may be levied if extraordinary, unbudgeted expenses are incurred.

(2) Regular assessments are payable in equal monthly installments during the year for which they are levied. Special assessments shall be paid in accordance with the provisions of the resolution levying them.

14.03 Unit Sale. Except as otherwise provided herein, unpaid Common Expenses assessed against a Unit shall be a joint and several liability of the seller and purchaser in a voluntary transfer of the Unit if a Statement of Condominium Lien covering the delinquency shall have been recorded prior to the transfer.

14.04 Foreclosure. In the event the Mortgagee of a first mortgage of record or any other purchaser or a Unit obtains title to the Unit as a result of foreclosure of a mortgage, or as a result of a conveyance in lieu of foreclosure, such purchaser or his/her successors and assigns shall not be liable for the total share of Common Expenses or assessments by the Association pertaining to such Unit or chargeable to the former Unit Owner, which Common Expenses or assessments became due prior to the acquisition of title. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectible proportionately from all of the Unit Owners.

14.05 Enforcement. Assessments shall include regular and special assessments levied by the Association, initial contributions, assessments for violations of Condominium documents or rules, interest imposed on any delinquencies, and costs of collection, including actual attorney fees, and constitute a lien on the Units to which they are assessed. Attachment, filing, effectiveness, priority, and enforcement of such liens shall be as provided under Section 703.16, Wisconsin Statutes, as amended from time to time.

14.06 Lien for Non-payment. The Association shall have a lien, from the date an assessment is made, upon any Unit for assessments made against that Unit, which assessments remain unpaid. The lien shall secure payment of the assessment, interest, and costs of collection, including reasonable attorney fees. The lien may be recorded in the Dane County Register of Deeds office by an instrument executed by the Association and may be foreclosed. The Unit Owner shall be personally liable for all unpaid assessments, interest, and costs of collection. This liability shall not terminate upon transfer of ownership or upon abandonment by the Unit Owner. When any lien is foreclosed, if the Unit Owner remains in possession of the Unit, he/she shall pay a reasonable rental value of the Unit. The Association shall be entitled to the appointment of a receiver of the Unit, as a matter of strict right. Assessments shall be paid without offset or deduction. No Unit Owner may withhold payment of any assessment or any part thereof because of any dispute which may exist between a Unit Owner and the Association. Rather, the Unit Owner shall pay all assessments pending resolution of any dispute.

14.07 Suspension of Voting Rights. If any assessment of Common Expenses is delinquent and a "Statement of Condominium Lien" as described in Section 703.16(9), Wisconsin Statutes, or as amended from time to time, has been recorded against a Unit, the Association may suspend the voting rights of the delinquent Unit Owner. A delinquency resulting in the filing of a Statement of Condominium Lien against a Unit shall constitute an act of default under any mortgage secured by the Unit.

ARTICLE XV

AMENDMENTS

Except as otherwise provided herein, any amendment to this Restated Declaration requires the written consent of two-thirds of the Unit Owners (based on one unitary vote per Unit), and the consent of any Unit Owner must be approved by the Mortgagee of the Unit, if any; provided, however, that no such amendment may substantially impair the security of any Unit Mortgagee. No amendment to this Restated Declaration shall be effective until an instrument containing the amendment and stating that the required votes are duly obtained, signed on behalf of the Association, and duly acknowledged or authenticated, is recorded with the Dane County Register of Deeds. For purposes of this provision and Restated Declaration, each Unit shall have one (1) vote.

ARTICLE XVI

NOTICES

The person to receive service of process for the Association shall be the President of the Board of Directors or such other person as may be designated from time to time by the Association, which designation shall be filed with the Wisconsin Secretary of State's office.

ARTICLE XVII

REMEDIES

If any Unit Owner fails to comply with all provisions of the Act, this Restated Declaration, Association By-laws, and Articles of Incorporation, or any rules and regulation promulgated by the Association, the Unit Owner may be assessed the amount of actual damages suffered as a result of the violation or, if damages cannot be accurately determined, liquidated damages in the amount of \$100 for each violation. These assessments for violations shall be enforceable as a lien on the owner's Unit or by suit for damages or injunction. Each day of violation shall constitute a separate

violation for purposes of this Article. Any and all attorney fees and other expenses incurred by the Association in enforcing this provision shall be reimbursed by the Unit Owner in violation and may be assessed against such Owner's unit. Individual Unit Owners shall have similar rights of action, but not reimbursement, against the Association.

ARTICLE XVIII

EASEMENTS

Easements are reserved over, through and underneath the Common Elements for ingress and egress and for present and future utility services, including but not limited to, easements for water pipes, sanitary sewer pipes, emergency sewer lines, storm drainage pipes, sprinklers pipes, electrical wires, TV wires, security wires, and street lights, whether or not shown on the exhibits attached hereto. Easements for such utility services are reserved to the Association and Unit Owners. Easements of ingress and egress are reserved to the association in, over, and under the Units and Limited Common Elements, their ceilings, floors, and walls for the purpose of making any repairs which are the obligation of the Association. The Association shall be responsible for any damage resulting from such easements.

ARTICLE XIX

GENERAL

21.01 Utilities. Each Unit Owner shall pay for his/her telephone, electrical, and other utility services which are separately metered or billed to each user by the respective utility company. Utilities which are not separately metered or billed shall be treated as part of the Common Expenses.

21.02 Encroachments. If any portion of a Unit, Limited Common Elements, or Common Elements encroaches upon another, an easement for the encroachment and its maintenance shall exist. In the event all or a portion of the Condominium is damaged and subsequently reconstructed, the

Unit Owners shall allow encroachments on the Units, Limited Common Elements, or on the Common Elements during construction, and easements for such encroachments and their maintenance shall exist.

21.03 Invalidity of a Provision. If any of the provisions of this Restated Declaration, of the Association's By-laws, or of any rules and regulations adopted by the Association, or any portion thereof, shall be determined to be invalid by a court of competent jurisdiction, the remaining provisions and portions thereof shall not be affected thereby.

21.04 Conflict in Condominium Documents. In the event a conflict exists among any provision of this Restated Declaration, the Articles of Incorporation, the By-laws, or any administrative rules and regulations, or between any of them, this Restated Declaration shall be considered the controlling document.

21.05 Warranties. The Association has made no warranty or representation in connection with the Condominium, except as specifically set forth in this Restated Declaration. No person shall rely upon any warranty or representation unless contained in this Restated Declaration. Any estimates of Common Expenses, taxes, or other charges shall be considered estimates only, and no warranty or guarantee of such amounts shall be made or relied upon.

21.06 No Right of First Refusal. The right of a Unit Owner to sell, transfer, or otherwise convey his/her Unit shall not be subject to any right of first refusal or similar restriction for the benefit of the Association.

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