



**DECLARATION OF COVENANTS  
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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR  
WESTHAVEN TRAILS COMMUNITY SERVICES ASSOCIATION, INC.**

This Declaration of Covenants, Conditions, and Restrictions is made this 2<sup>ND</sup> day of October, 1981, by Westhaven Associates, a limited partnership, by T. W. Weber Realty, Inc., a general partner (hereinafter referred to as "Declarant").

**WITNESSETH**

Declarant is the owner of the real property described in Exhibit "A" attached hereto and incorporated herein by reference. Declarant intends by this Declaration to impose upon the property mutually beneficial restrictions under a general plan of improvement for the benefit of all owners of residential lots within the plats of Westhaven Trails and the Rudi Addition to Westhaven Trails in the City of Madison, Dane County, Wisconsin and all additions thereto. Declarant desires to provide a flexible and reasonable procedure for the overall development of the property and to establish a method for the administration, maintenance, preservation, use, and enjoyment of such property as is now or may hereafter be subject to this Declaration.

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit "A" and, any additional property as may by subsequent amendment be added to and subjected to this Declaration, shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of and which shall run with the real property subject to this Declaration and which shall be binding on all parties having any right, title, or interest in the described properties or any part thereof, their heirs, successors, successors-in-title, and assigns, and shall inure to the benefit of each owner thereof.

**ARTICLE 1 - DEFINITIONS**

**Section 1.01** **"Association"** shall mean and refer to Westhaven Trails Community Services Association, Inc., a Wisconsin nonprofit corporation, its successors and assigns. The "Board of Directors" or "Board" shall be the elected body having its normal meaning under Wisconsin corporate law.

**Section 1.02** **"Properties"** shall mean and refer to the real property described in Exhibit "A" attached hereto and shall further refer to such additional property as may hereafter be annexed by amendment to this Declaration.

**Section 1.03** **"Owner"** shall mean and refer to the record owner, whether one or more persons or entities, of any Residential Unit which is part of the Properties, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. For the purpose of this definition, the owner of Residential Units in an apartment building shall be the record owner of the apartment building or buildings. The owner of Residential Units in a cooperative shall be the cooperative corporation.

**Section 1.04** **"Common Area"** shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of the Residential Unit owners, including such Outlots and Lots in the Rudi Addition to Westhaven Trails as shall be conveyed to the Association by the Declarant, at its discretion. All such conveyances by Declarant of property to be used as common area shall be accepted by said Associations.

**Section 1.05** **"Residential Unit"** shall mean any portion of the Properties intended for use and occupancy as a residential living unit by a single household, and shall, unless otherwise specified, include within its meaning (by way of illustration, but not limitation) single family houses, duplexes, condominium units, apartment and cooperative units, patio or zero lot line homes, as may be developed, used, and defined,

as herein provided or as provided in subsequent Declarations covering all or a part of the Properties.

For the purpose of this Declaration, a newly constructed Residential Unit shall come into existence upon the issuance of a certificate of occupancy by the City of Madison, a Wisconsin municipal corporation. The term "Residential Unit" shall not include any commercial space which might be subject to all or part of this Declaration.

**Section 1.06 "Area of Common Responsibility"** shall mean and refer to the Common Area, together with those areas, if any, which by contract with any residential or condominium association, with any commercial establishment or association, or with any apartment building owner or cooperative within Westhaven Trails, become the responsibility of the Association. In addition, any Association manager's office located on the Properties shall be part of the Area of Common Responsibility.

**Section 1.07 "Common Expenses"** shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be necessary and appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation.

**Section 1.08 "Member"** shall mean and refer to a person or entity entitled to membership in the Association, as provided herein. Section 1.09 "Person" means a natural person, a corporation, a partnership, trustee, personal representative or other legal entity.

**Section 1.10 "Parcel"** shall mean and refer to separately designated, developed residential areas comprised of various types of housing initially or by amendment made subject to this Declaration, for example and as by way of illustration and not limitation: condominiums, cooperatives, fee simple townhouses or rowhouses. In the absence of a specific designation of separate parcel status, all property made subject to this Declaration shall be considered a part of the same parcel; provided, however, the Declarant may designate in any subsequent amendment adding property to the terms and conditions of this Declaration that such property shall constitute a separate parcel or parcels.

**Section 1.11 "Parcel Assessments"** Parcel assessments for common expenses provided for herein or by any supplementary Declaration shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the owners of the Residential Units against which the specific parcel assessment is levied and of maintaining the property within a given parcel, all as may be specifically authorized from time to time by the Board of Directors and as more particularly authorized below. The Parcel Assessment shall be levied equally against owners of Residential Units in a parcel in the manner described in Article 9 for such purposes that are authorized by this Declaration or by the Board of Directors from time to time.

**Section 1.12 "Residential Association"** shall mean any homeowners, condominium or cooperative association, except a tenant association, created on property subject to this Declaration containing structures for residential purposes.

**Section 1.13 "Lot"** shall mean any portion, piece or parcel of land measured and set apart by a recorded plat for individual and private use and occupancy.

## **ARTICLE 2 - PROPERTY RIGHTS**

Every owner shall have a right and easement of enjoyment in and to the Common Area subject to any restrictions or limitations contained in any deed conveying such property to the Association or contained in any amendment to this Declaration subjecting such property to this Declaration and such easement shall be appurtenant to and shall pass with the title to every lot. Any owner may delegate his or her rights under this Article to the members of his or her family, tenants, and social invitees subject to reasonable regulation by the Board and in accordance with procedures it may adopt.

## **ARTICLE 3 - MEMBERSHIP AND VOTING RIGHTS**

**Section 3.01 Membership** Every person or entity who is the record owner of a fee, undivided fee or land contract vendee's interest in any Residential Unit or vacant lot that is subject to this Declaration shall be deemed to have a membership in the Association. Membership shall be appurtenant to and may not be separated from such ownership. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the owner's membership. Each residential unit and vacant lot owner, whether one or more persons, shall have one membership per Residential Unit or vacant lot owned. In the event of multiple owners of a Residential Unit or vacant lot, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by a member or the member's spouse.

**Section 3.02 Voting-Classes of Membership; Leases** The Association shall have two (2) classes of membership, Class "A" and Class "B" as follows:

**(a) Class "A"** Class "A" members shall be all owners with the exception of the Class "B" members, if any.

Class "A" members shall be entitled on all issues to one (1) vote for each Residential Unit or vacant lot in which they hold the interest required for membership by Section 3.01 hereof. When more than one person holds such interest in any Residential Unit or vacant lot, the vote for such Residential Unit or vacant lot shall be exercised as those owners themselves determine and advise the Secretary of the Association prior to any meeting. In the absence of such advice, the vote shall be suspended in the event more than one person seeks to exercise it. Said membership vote may be cast as fractionalized shares.

Any owner of Residential Units which are leased may, in the lease or other written instrument, assign the voting right appurtenant to that Residential Unit to the lessee, provided that a copy of such instrument with all signatures authenticated or acknowledged is furnished to the Secretary prior to any meeting.

**(b) Class "B"** Class "B" member shall be the Declarant and any successor of Declarant who takes title to the properties for the purpose of development and sale. The Class "B" member shall originally be entitled to One Thousand (1,000) votes; this number shall be decreased by one (1) vote for each Class "A" residential unit membership existing at any one time. The Class "B" membership shall terminate and become converted to Class "A" membership upon the happening of the earlier of the following:

- (i) when the total outstanding Class "A" votes equal or exceed Eight Hundred Fifty (850);
- (ii) January 1, 1995; or
- (iii) when, in its discretion, the Declarant so determines.

From and after the happening of these events, whichever occurs earlier, the Class "B" members shall be deemed to be Class "A" members entitled to the number of votes remaining after deduction for the then existing Class "A" votes. At such time, the Declarant shall call a meeting as provided in the By-Laws for special meetings to advise the membership of the termination of Class "B" status.

#### **ARTICLE 4 - MAINTENANCE**

The Association shall maintain and keep in good repair the Common Area, if any, such maintenance to be funded, as hereinafter provided. However, any sidewalk or trail which is part of the original trail system as shown on the preliminary plat of the Rudi Addition to Westhaven Trails approved by the Common Council of the City of Madison, Wisconsin, if not dedicated to public maintenance, shall be deemed a part of the Common Area and shall be maintained by the Association even if such sidewalk or trail is also part of the common area or elements of a Residential Association. This maintenance shall include, but not be limited to, maintenance, repair, and replacements, subject to any insurance then in effect, of all landscaping and other flora, structures, trails, park equipment and improvements situated upon the Common Area.

The Association may, in the discretion of its Board, assume the maintenance responsibilities set out in any Declaration subsequently recorded which creates any residential association (including, but not limited to, condominium or cooperative associations) upon all or any portion of the Properties. In such event, all costs of such maintenance shall be assessed only against those members residing in the association to which the services are provided. The assumption of this responsibility may only take place by the consent and written agreement of both parties.

#### **ARTICLE 5 - INSURANCE AND CASUALTY LOSSES**

**Section 5.01 Insurance.** The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements on the Common Area. The Board shall also obtain a public liability policy insuring the Common Area, the Association, and its members against liability for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance.

Cost of insurance coverage obtained for the Common Area shall be included in the General Assessment, as defined in Section 9.01.

#### **ARTICLE 6 - CONDEMNATION**

Whenever all or any part of the Common Area shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on its behalf or on the written direction of all Owners of Residential Units subject to the taking, if any) by any authority having the power of condemnation or eminent domain, each owner shall be entitled to notice thereof and to participate in the proceedings incident thereto, unless otherwise prohibited by law. The award made for such taking shall be payable to the Association, as Trustee for all owners, to be disbursed as follows:

If the taking involves a portion of the Common Area on which improvements have been constructed, then, unless within sixty (60) days after such taking the Declarant and at least seventy-five (75%) percent of the Class "A" members of the Association shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Area, to the extent lands are available therefore, in accordance with plans approved by the Board of Directors of the Association. If such improvements are to be repaired or restored, the provisions in Section 5.03 hereof regarding the disbursement of funds in respect to casualty damage or destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Area, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be disbursed to the Association and used for such purposes as the Board of Directors shall determine.

#### **ARTICLE 7 - ANNEXATION OF ADDITIONAL PROPERTY**

Subject to the written consent of the owner thereof, upon the written consent or affirmative vote of both the Class B Member (if said member exists) and a majority of the Class "A" members of the Association present or represented by proxy at a meeting duly called for such purpose, the Association may annex real property to the provisions of this Declaration and the jurisdiction of the Association.

#### **ARTICLE 8 - RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

**Section 8.01 The Common Area** 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), and shall keep the Common Area in good, clean, attractive, and sanitary condition, order, and repair, pursuant to the terms and conditions hereof. The Association shall exercise special care to insure that any ponds or storm water detention basins do not become breeding grounds for mosquitoes.

**Section 8.02 Personal Property and Real Property for Common Use** The Association, through action of its Board of Directors, may acquire, hold, and dispose of tangible and intangible personal property and real property. The Board, acting on behalf of the Association, shall accept any real or personal property, leasehold, or other property interests conveyed to it by the Declarant.

**Section 8.03 Rules and Regulations** The Association, through its Board of Directors, may make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines which shall constitute a lien upon the owner's Residential Unit(s) or vacant lot(s) and suspension of the right to vote and the right to use the Common Area. In addition, the Board shall have the power to seek relief in any court for violations or to abate unreasonable disturbances. Imposition of sanctions shall be as provided in the By-Laws.

**Section 8.04 Implied Rights** The Association may exercise any other right or privilege given to it expressly by this Declaration or the By-Laws, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

## **ARTICLE 9 - ASSESSMENTS**

**Section 9.01 Creation of General Assessment** There are hereby created General Assessments for Common Expenses as may after January 1, 1984 be from time to time specifically authorized by the Board of Directors. General Assessments shall be allocated among all Residential Units and vacant lots within the Association according to the formula described at Section 9.02. The general assessments provided for herein shall commence with respect to assessable residential living units or vacant lots on the day of conveyance of the first lot to an owner who is not the Declarant. Each owner, by acceptance of a deed, is deemed to covenant and agree to pay these assessments. All such assessments, together with interest (at a percentage rate no greater than the current statutory maximum annual interest rate charged on an "open account" under the Wisconsin Consumer Credit Act to be set by the Board for each assessment period) costs, and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the Residential Unit or vacant lot against which each assessment is made.

Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such Residential Unit or vacant lot at the time the assessment arose, and the grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance. Except, no first mortgagee who obtains title to a Residential Unit or vacant lot pursuant to the remedies provided in the mortgage shall be liable for unpaid assessments which accrued prior to such acquisition of title.

Assessments shall be paid in such manner and on such dates as may be fixed by the Board of Directors which may include, without limitation, acceleration of assessments for residential unit owners who are delinquent in their payments; unless the Board otherwise provides, the assessments shall be paid in a single annual installment. The Association is specifically authorized and encouraged to seek public and private funds to help defray in whole or in part the expenses for which assessments would be necessary. To the extent received, such funds shall be used to reduce the assessments computed under Section 9.03.

### **Section 9.02 Basis of Assessment**

- 1) Single-Family Duplex Condominium or Cooperative Residential Living Units and Single Family or Duplex Vacant Lots.**

- a) Each single family, duplex, condominium or cooperative living unit occupied or certified for occupancy by the City of Madison which is not owned by Declarant shall be assigned the following weighted factors per bedroom which shall be multiplied times the base assessment rate:
  - i) Four (4) Bedrooms or more Factor of Five (5)
  - ii) Three (3) Bedrooms or more Factor of Four (4)
  - iii) Two (2) Bedrooms or less Factor of three (3)
- b) Each single family or duplex vacant lot which has been conveyed by Declarant to an Owner shall be assessed at a weighted factor of one (1).

**2) Multi-Family Residential Living Units and Multi-Family Lots.**

- a) Each condominium, apartment, cooperative, townhouse or rowhouse residential living unit occupied or certified for occupancy by the City of Madison which is not owned by Declarant shall be assigned the following weighted factors which shall be multiplied times the base assessment rate:
    - i) Three (3) or more bedrooms Factor of three (3)
    - ii) Two (2) bedrooms Factor of two (2)
    - iii) One (1) bedroom or efficiency Factor of one (1)
  - b) Each vacant lot zoned for multi-family residential unit use which has been conveyed by Declarant to an Owner upon which no dwelling unit has been constructed shall be assessed based on a projected residential unit development potential of 12 units to the acre with each such residential unit having a weighted factor of one (1). The number of projected potential residential units per lot shall be rounded down to the nearest even number and such number shall then be multiplied by the base assessment rate to determine the assessment for each such lot.
- 3) **The term "Owner" excludes Declarant.** For the purpose of assessment, the term "Owner" shall exclude the Declarant, a developer, builder, contractor, investor or other person or entity who purchases a lot for the purpose of constructing improvements thereon for resale to an Owner.

**Section 9.03 Computation of Assessment.** To pay for ongoing Common Expenses, the Board shall prepare an annual budget as provided in the By-Laws.

- 1) The base assessment rate shall be calculated as follows:
  - a) The number of living units and vacant lots described in Section 9.02 existing as of the beginning of the budget period shall be multiplied by their respective weighted factors.
  - b) The products calculated under Section 9.03(1)(a) shall be added together to arrive at a total weighted factor.
  - c) The annual operating and the capital budget shall then be divided by the total weighted factor computed under Section 9.03(1)(b) which quotient shall be the "base assessment rate".

**Section 9.04 Special Assessments.** In addition to the assessments authorized in Section 9.01, the Association may levy a Special Assessment in any year beginning in 1984. Such special assessment shall be for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement upon the Common Area of landscaping and capital improvements thereto including but not limited to a community center and the fixtures and personal property related thereto. So long as the total assessments authorized under this Article do not exceed Two Hundred (\$200.00) Dollars in any one year, the Board, by majority vote, may impose the special assessment. If such total be exceeded, any special assessment shall be effective only with the approval of a majority of the Class "A" members. The basis and computation of said special assessment shall be as provided in Sections 9.02 and 9.03.

**Section 9.05 Lien for Assessments.** Assessments shall constitute a lien on each Residential Unit or vacant lot prior and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record made in good faith and for value, as described in Section 9.01.

The Association, acting on behalf of the owners, shall have the power to bid for the Residential Unit or vacant lot at foreclosure sale, and to acquire and hold, lease, mortgage, and convey the same. During the period a Residential Unit or vacant lot is owned by the Association following foreclosure: (1) no right to vote shall be exercised on its behalf; (2) no assessment shall be assessed or levied on it; and (3) each other Residential Unit or vacant lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Residential Unit or vacant lot had it not been acquired by the Association as a result of foreclosure.

Suit to recover a money judgment for unpaid common expenses, rent, and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

**Section 9.06 Capital Budget and Contribution.** Annually, the Board of Directors shall prepare a capital budget which shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost.

#### **ARTICLE 10 - ARCHITECTURAL APPROVAL**

**Section 10.01 Approval of Improvements Required.** The approval of the Architectural Committee shall be required for any Improvement to Property, other than any Improvement to Property made by Declarant.

**Section 10.02 Improvement to Property Defined.** An "Improvement to Property", requiring approval of the Architectural Committee, shall mean and include, without limitation: (a) the construction, installation, erection or expansion of any structure, whether residence, accessory or out building, garage, porch, deck, tennis court, swimming pool, antenna or satellite receiving dish (whether located on a structure or on a lot), flag pole, fence, well, exterior lighting, solar collecting apparatus or other improvements; (b) the demolition or destruction, by voluntary action, of any building, structure or other improvements; (c) the grading, excavation, filling or similar disturbance to the surface of the land including, without limitation, change of grade, change of ground level or change of drainage pattern; (d) clearing or removing of trees; (e) fencing; and (f) any change or alteration of any previously approved Improvement to Property including any change of exterior appearance, color or texture.

**Section 10.03 Membership of Committee.** The Architectural Committee shall initially consist of three (3) members, all of whom shall be appointed by Declarant. Declarant shall have the continuing right to appoint all three (3) members during the Appointment Period (as hereinafter defined). Thereafter, the Association shall have the right to appoint two (2) additional members and the Declarant shall appoint three (3) members, bringing the total Architectural Committee to five (5). The "Appointment Period" shall mean the period of time commencing as of the date of Recordation of this Community Declaration and continuing until the earliest to occur of the following events:

- a) At such time as the deeds have been recorded for the sale by Declarant of at least two hundred (200) lots in the Properties; or
- b) December 31, 1995

At such time as the deeds have been recorded for the sale by Declarant of all lots in the Properties, the Association shall have the right to appoint all members of said Committee.

Members of the Architectural Committee may, but shall not necessarily be Members of the Association. Members of the Architectural Committee appointed by Declarant may be removed at any time by Declarant and shall serve until resignation or removal by

Declarant. Members of the Architectural Committee appointed by the Board of Directors may be removed at any time by the Board, and shall serve for such term as may be designated by the Board or until resignation or removal by the Board. While Declarant has the right to appoint members of the Architectural Committee, Declarant and the Association shall each give written notice to the other of the appointment or removal of any member of the Committee. After the deeds have been recorded for the sale by Declarant of all lots in the Properties, the Association may at any time, and from time to time, change the authorized number of members of the Architectural Committee, but the number of members shall always be an odd number and shall not be less than five (5).

**Section 10.04 Address of Committee.** The address of the Architectural Committee shall be the principal office of the Declarant until such time as the Declarant is no longer entitled to appoint any members to the committee at which time the address shall be the principal office of the Association.

**Section 10.05 Submission of Plans.** Prior to commencement of work to accomplish any proposed Improvement to Property, the Person proposing to make such Improvement to Property ("Applicant") shall submit to the Architectural Committee at its offices such descriptions, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications and samples of materials and colors as the Architectural Committee shall reasonably request showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to Property. The Architectural Committee may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement to Property. Until receipt by the Architectural Committee of all required materials in connection with the proposed Improvement to Property, the Architectural Committee may postpone review of any materials submitted for approval.

**Section 10.06 Criteria for Approval.** The Architectural Committee shall approve any proposed Improvement to Property if it deems in its reasonable discretion that the Improvement to Property in the location indicated will not be detrimental to the appearance of the surrounding areas of the Properties as a whole; that the appearance of the proposed Improvement to Property will be in harmony with the surrounding areas of the Properties; that the Improvement to Property will not detract from the beauty, wholesomeness and attractiveness of the Properties or the enjoyment thereof by Owners; that the upkeep and maintenance of the proposed Improvement to Property will not become a burden on the Association; that for lots zoned for single family or duplex use there is a variation in building elevations and floor plans; and that a specific building plan shall not be repeated on adjacent or contiguous lots. The Architectural Committee may condition its approval of any proposed Improvement to Property upon the making of such changes therein as the Architectural Committee may in the exercise of its reasonable discretion deem appropriate.

**Section 10.07 Architectural Review Fee.** The Architectural Committee may, in its guidelines or rules, provide for the payment of a fee to accompany each request for approval of any proposed Improvement to Property. The Architectural Committee may provide that the amount of such fee shall be uniform for similar types of any proposed Improvement to Property or that the fee shall be determined in any other reasonable manner, such as based upon the reasonable cost of the proposed Improvement to Property.

**Section 10.08 Decision of Committee.** The decision of the Architectural Committee shall be made within ten (10) calendar days after receipt by the Architectural Committee of all materials required by the Architectural Committee. The decision shall be in writing and, if the proposed Improvement to Property is not approved, the decision shall state the reasons therefor.

The decision of the Architectural Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Architectural Committee.

**Section 10.09 Appeal to Association Board.** If the Architectural Committee consists solely of members appointed by the Association and said Committee denies or refuses approval of a proposed Improvement to Property, the Applicant may appeal to the Board of Directors by giving written notice of such appeal to the Community Association and the Architectural Committee within ten (10) days after such denial or refusal. The Board of Directors shall hear the appeal with reasonable promptness after reasonable notice of such hearing to the Applicant and the Architectural Committee and shall decide whether or not the proposed Improvement to Property shall be approved. The decision of the Board of Directors shall be final and binding on all Persons. If the Architectural Committee contains members appointed by the Declarant there shall be no right of appeal.

**Section 10.10 Failure of Committee to Act on Plans.** Any request for approval of a proposed Improvement to Property shall be deemed approved, unless a written notice of disapproval or a request for additional information or materials is mailed or delivered to the Applicant by the Architectural Committee within ten (10) days after the date of receipt by the Architectural Committee of all required materials.

**Section 10.11 Prosecution of Work After Approval.** After approval of any proposed Improvement to Property, said improvement shall be accomplished as promptly and diligently as possible and in total conformity with the plot plan, description, plans and specifications of the proposed Improvement to Property submitted to the Architectural Committee. Failure to complete the proposed Improvement to Property within one (1) year after the date of approval or to complete the Improvement to Property in total conformity with the plot plan, description, plans and specifications furnished to the Architectural Committee, shall operate automatically to revoke the approval of the proposed Improvement to Property.

**Section 10.12 Notice of Completion.** Promptly upon completion of the Improvement to Property, the Applicant shall give written Notice of Completion to the Architectural Committee and, for all purposes hereunder, the date of receipt of such Notice of Completion by the Architectural Committee shall be deemed to be the date of completion of such Improvement to Property. Section 10.13. Inspection of Work. The Architectural Committee or its duly authorized representative shall have the right to on site visitation to directly physically inspect any Improvement to Property prior to or after completion, provided that the right of inspection shall terminate seven (7) days after the Architectural Committee shall have received a Notice of Completion from the Applicant.

**Section 10.14 Notice of Noncompliance.** If, as a result of inspections or otherwise, the Architectural Committee finds that any Improvement to Property has been done without obtaining the approval of the Architectural Committee or was not done in total compliance with the description and materials furnished by the Applicant to the Architectural Committee or was not completed within one (1) year after the date of approval by the Architectural Committee, the Architectural Committee shall notify the Applicant in writing of the noncompliance which notice shall be given, in any event, within seven (7) days after the Architectural Committee receives a Notice of Completion from the Applicant. The notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

**Section 10.15 Failure of Committee to Act After Completion.** If, for any reason other than the Applicant's act or neglect, the Architectural Committee fails to notify the Applicant of any noncompliance within seven (7) days after receipt by the Architectural Committee of written Notice of Completion from the Applicant, the

Improvement to Property shall be deemed in compliance if the Improvement to Property was, in fact, completed as of the date of Notice of Completion.

**Section 10.16 Correction of Noncompliance.** If the Architectural Committee determines that a noncompliance exists, the Applicant shall remedy or remove the same within forty-five (45) calendar days from the date of mailing to the Applicant of a notice of noncompliance. If the Applicant does not remedy the noncompliance within such period, the Committee may report such noncompliance to the Board which shall record a Notice of Noncompliance against the real property on which the noncomplying improvement to property is located. The Board may either remove or cause to be removed the noncomplying Improvement to Property or may otherwise remedy the noncompliance by the commencement and presentation of a civil action in the Circuit Court for Dane County, Wisconsin. The Applicant shall reimburse the Association, for all expenses incurred in remedying the noncompliance. If such expenses are not promptly repaid by the Applicant or Owner to the Association, the Board may levy a Reimbursement Assessment against the Owner of the Residential Unit for such costs and expenses. The right of the Association to remedy or remove any noncompliance shall be in addition to all other rights and remedies which the Association may have at law, in equity, or under this Declaration.

**Section 10.17 No Implied Waiver or Estoppel.** The approval by the Architectural Committee of any Improvement to Property shall not be deemed a waiver of any right or an estoppel to withhold approval or consent for any similar Improvement to Property or any similar proposals, plans, specifications or other materials submitted with respect to any other Improvement to Property.

**Section 10.18 Committee Power to Grant Variances.** The Architectural Committee may, in its discretion, authorize variances from compliance with any of the provisions of this Declaration or any Supplemental Declaration, when circumstances exist such as topography, natural obstructions, economic conditions or other hardship, aesthetic or environmental considerations. Such variances shall be in writing and shall become effective when signed by at least a majority of the members of the Architectural Committee or the Committee's authorized representative. If any such variance is granted, no violation of the provisions of this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted; provided, however, that the granting of a variance shall not operate to waive any of the provisions of this Declaration or any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of a variance affect in any way the Owner's obligation to comply with all governmental laws and regulations affecting the property concerned, including, but not limited to, zoning ordinances and setback lines or requirements imposed by any governmental authority having jurisdiction.

**Section 10.19 Compensation of Members.** Members of the Architectural Committee shall receive no compensation for services rendered other than reimbursement of out-of-pocket expenses incurred by them in the performance of their duties hereunder, unless the Board of Directors or Declarant shall otherwise determine.

**Section 10.20 Meetings of Committee.** The Architectural Committee shall meet from time to time as necessary to perform its duties hereunder. The Architectural Committee may, from time to time, by resolution in writing adopted by a majority of the members, designate a Committee Representative (who may, but need not, be one of its members) to take any action or perform any duties for or on behalf of the Architectural Committee, including the granting of approval to any Improvement to Property and granting of variances. The action of such Committee Representative within the authority of such Committee Representative shall constitute action of the Architectural Committee. All matters presented directly to the members of the Architectural Committee shall be determined by a majority vote of the members of said Committee.

**Section 10.21**      **Records of Actions.** The Architectural Committee shall keep a permanent record of all final actions.

**Section 10.22**      **Estoppel Certificates.** The Board of Directors shall, upon the reasonable request of any interested party and after confirming any necessary facts with the Architectural Committee, furnish a certificate with respect to the approval or disapproval of any Improvement to Property or with respect to whether any Improvement to Property was made in compliance herewith. Any Person, without actual notice to the contrary, shall be entitled to rely on said certificate with respect to all matters set forth therein.

**Section 10.23**      **Nonliability for Committee Action.** No member of the Architectural Committee, or any Committee Representative, and no member of the Board of Directors, the Declarant or the Association shall be liable for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Architectural Committee unless due to the willful misconduct or bad faith of the party to be held liable. In reviewing any matter, the Committee shall not be responsible for reviewing, nor shall its approval of an Improvement to Property be deemed approval of the Improvement to Property from the standpoint of safety, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations.

**Section 10.24**      **Construction Period Exception.** During the course of actual construction of any permitted Improvement to Property, and provided construction is proceeding with due diligence, the Architectural Committee shall temporarily suspend the provisions contained in this Declaration as to the property upon which the construction is taking place to the extent necessary to permit such construction; provided that, during the course of any such construction, nothing is done which will result in a violation of any of the provisions of this Declaration upon completion of construction and nothing is done which will constitute a nuisance or unreasonable interference with the use and enjoyment of other property.

**Section 10.25**      **Conditional Use Application Notice to Neighborhood Association.** Any application for a conditional use permit for properties to which this declaration applies shall, at least two (2) weeks prior to submitting an application for same to the City of Madison for approval, submit specific plans therefor to the Prairie Hills Neighborhood Association.

#### **ARTICLE 11 - USE RESTRICTIONS**

All lots described herein shall be subject to the following use restrictions and the Association shall have full authority to enforce said restrictions in the manner described in this Declaration, the Articles of Incorporation and the By-Laws of the Association:

**Section 11.01**      **Maintenance of Lots and Structures.** Each Residential Unit or vacant lot owner shall keep said lot and all improvements therein or thereon in good order and repair, 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.

**Section 11.02**      **Nuisance or Annoying Activities.** No noxious or offensive activities shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to any other property in the vicinity thereof or to the occupants thereof. This shall not be construed to prevent a properly tended family garden or orchard which shall be located in the rear yard.

**Section 11.03**      **Animals.** No lot or parcel shall be used for the keeping or breeding of livestock, animals or poultry of any kind, except that household pets may

be kept, provided they are not kept for breeding or maintained for any commercial purposes. No animal enclosure, house, pen or fence or similar device shall be placed in the front yard. Placement of animals and animal enclosures on any other part of a lot shall be subject to the approval of the Architectural Committee which approval may require screening of said animal enclosure.

**Section 11.04 No Trash in Common Areas or Lots.** No lot, outlot or parcel of land, greenway, common area or park shall be used as a dumping ground for rubbish, trash leaves, lawn clippings, rocks, earth or garbage. Trash, garbage or other waste shall not be kept or stored except in sanitary containers.

**Section 11.05 Garbage and Trash Containers.** No garbage or trash containers shall be stored outside of a Residential Unit or garage unless enclosed with a fence and gate approved by the Architectural Committee.

**Section 11.06 Lighting.** Exterior lighting installed on any lot or improvement shall either be indirect or of such controlled focus and intensity so that such lighting will not disturb the residents of adjacent lots.

**Section 11.07 Signs.** No signs of any kind shall be displayed to the public view on any lot excepting one (1) professional sign of not more than one (1) square foot. Temporary open house or garage sale signs may be displayed during daylight hours. No advertising signs, except for one (1) "For Rent" or "For Sale" sign not to exceed six (6) square feet shall be placed or permitted to remain on any lot. A builder or real estate broker may each erect one (1) sign per lot without regard to size to advertise the property during the construction and sales period. This restriction shall not apply to signs installed by Declarant identifying the subdivision or advertising lots for sale.

**Section 11.08 Antennae/Wind Powered Electric Generators.** No wind powered electric generators, exterior television or radio receiving or transmission antennae or satellite signal receiving station or dish shall be placed or maintained upon any portion of a lot without prior written approval of the Architectural Committee.

**Section 11.09 Fences.** No fence of any kind shall be constructed on any lot without the express written permission of the Architectural Committee which shall favor fences consisting of plantings, trees and shrubs which do not obstruct views.

**Section 11.10 Firewood Storage.** No firewood or wood pile shall be kept outside a structure unless it is neatly stacked, placed in a non-street side yard and screened from street view by plantings or a fence approved by the Architectural Committee.

**Section 11.11 Commercial Vehicles.** No Commercial vehicles may be stored or parked overnight on any portion of the properties, except in an enclosed garage.

**Section 11.12 Recreational and Other Vehicle Storage.** Storage of boats, trailers, travel trailers, mobile homes, campers, snow mobiles, motorcycles, mini-bikes and other recreational vehicles is prohibited in the front or rear yard of any Residential Unit or on any vacant lot or on any property, outlot or common area owned by the Association. Such equipment and/or vehicles may be stored in the side yard parallel to a non-street lot line between the front and the rear yard of the improvement constructed upon said lot. This shall not prohibit the temporary storage of such vehicles for the purpose of loading or unloading for a period not to exceed twelve (12) hours. No automobiles, trucks or other vehicles shall be parked on lawns at any time.

**Section 11.13 Easements.** No structure, planting, or other materials shall be placed or permitted to remain within any easement of record which may damage or interfere with the installation and maintenance of utilities, or which may change the

direction of flow of drainage channels in the easement, or which may obstruct or retard the flow of water through drainage channels in the easement. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

**Section 11.14 No Interference with Utility Easements.** No structure, trees, shrubs or planting or other materials shall be placed or permitted to remain within any easement or record which may damage or interfere with the installation and maintenance of utilities.

**Section 11.15 Utility Easement Grade Changes.** The elevation of any utility easement shall not be changed in excess of six (6) inches without the approval of the Wisconsin Power and Light Company. Any lot owner shall be responsible for any damage to underground utilities caused by any changes in grade in excess of six (6) inches.

**Section 11.16 Solar Access.** A reasonable effort shall be made to insure that no landscaping or vegetation of any type is planted, altered, maintained, or cultivated in such a manner as to intrude or encroach into and/or onto or otherwise interfere with that particular roof space designed and/or required in order that the collection surface of a solar collection device receive or be exposed to direct sunlight for that period of time commencing at 9:00 A.M. True Solar Time and continuing through 3:00 P.M. True Solar Time on each day of the year.

**Section 11.17 Sight Distance at Intersection.** No hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty (20) feet from the intersection of the street lines; or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within the restricted areas specified in this section unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

**Section 11.18 Solar Orientation for Structures is Encouraged.** Consideration shall be given to orienting and designing residential structures, and their windows, roofs and the pitch of said roofs to take maximum advantage of present and potential access to sunlight for the utilization of active and passive solar energy collectors. However, no active solar collector or apparatus may be installed on any lot unless such installation is first approved in writing by the Architectural Committee which shall consider the aesthetic and reflection effects on the neighborhood. Solar collectors or apparatus installed flat or parallel to the plane of the roof shall be preferred.

**Section 11.19(a) Building Setback.** Unless specifically approved by the Architectural Committee, no building shall be located on any lot nearer than 30 feet to the front lot line, nor nearer than 20 feet to any side street line. No dwelling shall be located on any lot more than 45 feet from the front lot line except on Lots 117, 244 and 245, Rudi Addition to Westhaven Trails, in the City of Madison, Dane County, Wisconsin.

**Section 11.19(b) Side Yards.** No building shall be located nearer than 6 feet to an interior lot line, except that no side yard of more than 3 feet shall be required for a garage or other permitted accessory building located 50 feet or more from the minimum building setback line. For the purposes of the covenant at Sections 11.19(a) and 11.19(b) eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot unless said lots have and continue to

have the same owner as provided in Section 11.22. **Section 11.19(c)** Unless specifically approved by the Architectural Committee, no detached single family residential unit shall exceed two and one-half stories in height and all single family units shall have a private garage attached to said unit for not less than one (1) automobile.

**Section 11.20 Construction Debris.** All construction debris, stumps, trees, etc., must be periodically removed from each lot by the builder and/or owner and such debris shall not be dumped or buried in any area within Westhaven Trails unless approved in writing by the Architectural Committee. Following construction and until the house is sold and/or occupied, the builder and/or owner shall keep the yard clean and landscaped and the lawn mowed and maintained.

**Section 11.21 Construction Completion.** Construction of all structures shall be completed within nine (9) months after issuance of a building permit by the City of Madison, Wisconsin. The minimum landscaping therefore, consisting of seeding or sodding, shall be completed within one (1) year after issuance of said building permit.

**Section 11.22 Construction on Adjoining Lots.** Nothing contained herein shall be construed to prohibit the construction of a dwelling or private garage partially on one lot and partially on an adjoining lot without regard to side yards between adjoining lots, provided that all such lots are owned by the same person or persons and provided that any subsequent division of such lots shall provide for the areas, side yards and setbacks set forth in these restrictions.

**Section 11.23 Driveways.** All driveways shall be of concrete or asphalt and shall be installed within one (1) year after issuance of a certificate of occupancy by the City of Madison, Wisconsin.

**Section 11.24 McKee Road (Hwy. PD) Driveway Access.** Driveways for Lots 121 through 129, Rudi Addition to Westhaven Trails in the City of Madison, Dane County, Wisconsin which take access from McKee Road (Dane County Trunk PD) shall be designed to permit vehicles to turn around upon each said lot to enable a vehicle to avoid backing out upon said road. In addition, driveway access to said road from said lots is restricted to the locations shown upon the face of the plat.

**Section 11.25 Drainage Swales.** No owner of any lot shall grade or obstruct any drainage swale which is in existence at the time of development so as to impede the flow of drainage water from other lots across such swale nor shall any owner cause or permit same.

**Section 11.26 Temporary Buildings.** Except with the specific written permission of the Architectural Committee, no temporary house, accessory building, temporary or permanent storage building, shack, mobile home, tent, barn or other outbuilding shall be erected or placed upon any lots to be used for residential purposes. All garages, outbuildings or storage buildings shall be attached to the permanent residential structure unless otherwise permitted by the Architectural Committee.

**Section 11.27 Previously Erected Buildings.** No building previously erected elsewhere shall be moved upon any lot in said plat, excepting new prefabricated construction which has been approved by the Architectural Committee.

**Section 11.28 Schools & Busing.** If enrollments warrant, elementary school children may be transported to any elementary school within the Orchard Ridge Middle School attendance area.

**ARTICLE 12 - MORTGAGEE PROVISIONS**

The following provisions apply to the Properties, and none may be amended without the consent of the first mortgagees on two-thirds (2/3) of the lots:

**Section 12.01 Consent of Lenders Required.** Without the consent of first mortgagees described above, the Association shall not be entitled to:

- (a) by act or omission seek to abandon, alienate, release, partition, hypothecate, subdivide, encumber, sell, or transfer any common area owned, directly or indirectly, by the Association for the benefit of the Residential Units; provided, however, the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Area shall not be deemed a transfer within the meaning of this clause;
- (b) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an owner;
- (c) by act or omission change, waive, or abandon the system of regulations and enforcement established in this Declaration for architectural design or the exterior appearance and maintenance of Residential Units, and the maintenance of the Common Area in the Properties; or
- (d) use hazard insurance proceeds for losses to any Common Area for other than the repair, replacement, or reconstruction of such Common Area.

**Section 12.02 Payment of Taxes.** First mortgagees of Residential Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Common Area. First mortgagees making such payments shall be entitled to immediate reimbursement therefor from the Association.

**Section 12.03 No Priority.** No provision of this Declaration or the By-Laws gives or shall be construed as giving any owner or any other party priority over any rights of the first mortgagee of a Residential Unit pursuant to its mortgage in the case of a distribution to such owner of insurance proceeds or condemnation awards for losses to or a taking of Common Area.

**Section 12.04 Notice to Mortgagee.** Notwithstanding anything contained herein which might otherwise be construed to the contrary, a first mortgagee, upon submission to the Association of a request designating such unit, will be entitled to written notification from the Association of any default in the performance by any owner of a Residential Unit of any obligation under this Declaration, the By-Laws, or the Articles of Incorporation which is not cured within sixty (60) days.

**Section 12.05 Management Agreement Limitations.** Notwithstanding anything contained herein which might otherwise be construed to the contrary, any agreement for professional management of the Common Area, or any other agreement providing for services by the Declarant, may not exceed one (1) year.

**ARTICLE 13 - GENERAL PROVISIONS**

**Section 13.01 Enforcement.** The Association, 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 now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

**Section 13.02 Severability.** Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 13.03 Amendment.** The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the owners of not less than seventy-five percent (75%) of the lots within the Properties and thereafter by an

instrument signed by the owners of not less than sixty-five percent (65%) of the said lots. All amendments must be recorded in the office of the Register of Deeds for Dane County, Wisconsin. No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege. So long as the Class "B" membership exists, the Declarant may, without vote of the owners, amend this Declaration consistent with the purposes of the Association as described in the preamble hereto.

**Section 13.04 Declarant Easement.** An easement is hereby reserved to Declarant to enter the Common Area during the period of construction and sale of lots and to maintain such facilities and perform such operations as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the construction and sale of improvements and the construction of improvements to the Common Area.

**Section 13.05 Indemnification of Officers and Directors.** The Association shall indemnify every officer and director against any and all expenses, including counsel fees, reasonably incurred by or imposed upon any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association may, as a common expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation.

**Section 13.06 Delegation of Use.** Any owner may delegate, in accordance with the By-Laws of the Association, and subject to such additional rules as may be enacted by the Board of Directors his or her right of enjoyment to the Common Area and facilities to the members of his or her family, tenants, and occasional social invitees.

**Section 13.07 Owner's Right to Ingress, Egress, & Support.** Each owner shall have the right to ingress and egress over, upon, and across the Common Area necessary for access to his or her Residential Unit and shall have the right to lateral support for his or her Residential Unit, and such rights shall be appurtenant to and pass with the title to each Residential Unit.

**Section 13.08 Easements for Utilities, etc.** There is hereby reserved to the Board of Directors the power to grant blanket easements upon, across, over, and under all of the Common Area property for ingress, egress, installation, replacing, repairing, and maintaining cable television systems, security and similar systems, and all utilities, including, but not limited to, water, sewers, telephones, and electricity. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on said Common Area, except as may be approved by the Association's Board of Directors or as provided in the development and sale by Declarant. Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement on said property without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Properties. The Board shall with the written approval of the Declarant, have, by three fourths (3/4) vote, the power to dedicate

all or part of the Common Area to the City of Madison, Wisconsin provided said City accepts said dedication and agrees to maintain said Common Area.

**Section 13.09 Perpetuities.** If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Ronald Reagan, President of the United States.

**Section 13.10 Renting or Leasing of Residential Units.** Units may be rented or leased only by written leases and subject to the following restrictions.

Lessee to Comply with Declaration and By-Laws - Effect of Non-Compliance. All tenants shall be subject to the terms and conditions of this Declaration, the By-Laws, the Articles of Incorporation, and the rules and regulations promulgated thereunder as though such tenant were an Owner.

In the event that a lessee, occupant, or person living with the lessee violates a provision of the Declaration, By-Laws, or rules and regulations adopted pursuant thereto, the Board shall have the power to bring an action or suit against the lessee to recover sums due for damages or injunctive relief, or for any other remedy available at law or equity.

The Board shall also have the power to impose reasonable fines upon the lessee for any violation by the lessee, occupant, or person living with the lessee of any duty imposed under the Declaration, By-Laws, or rules and regulations adopted pursuant thereto, and to suspend the right of the lessee, occupant or person living with the lessee to use the Common Area.

IN WITNESS WHEREOF, he undersigned Declarant has executed this Declaration this 2<sup>nd</sup> day of October, 1981.

WESTHAVEN ASSOCIATES, a limited partnership, by T. W. WEBER REALTY, INC., a Wisconsin corporation, a general partner,

By: \_\_\_\_\_  
Thomas W. Weber, President

Attest: \_\_\_\_\_  
Sharon L. Schovain, Secretary

EXHIBIT "A"  
TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
WESTHAVEN TRAILS COMMUNITY SERVICES ASSOCIATION, INC.

Legal description of property subject to this Declaration:

1. Lots One (1) through Fifty-nine (59), Westhaven Trails, in the City of Madison, Dane County, Wisconsin according to the plat thereof recorded on February 11, 1981 in Volume 53 of Plats, pages 19, 20 and 21 as Document #1697279, Dane County, Wisconsin Registry.
2. All lots zoned for residential use and all outlots in the proposed subdivision entitled the Rudi Addition to Westhaven Trails, in the City of Madison, Dane County, Wisconsin as shown on a preliminary plat approved by said City and to be contained within the following described real property:

Being part of the Northeast 1/4 of the Southeast 1/4, part of the Southeast 1/4 of the Southeast 1/4, part of the Southwest 1/4 of the Southeast 1/4, and part of the Northwest 1/4 of the Southeast 1/4, Section 2, Township 6 North, Range 8 East, City of Madison, Dane County, Wisconsin, more fully described as follows:

Commencing at the East 1/4 corner of said Section 2, T6N, R8E; thence S89°23'01"E, 313.01 feet to the point of beginning of this description; thence SO°02'16"W, 0145.04 feet; thence S14°55'14"E, 0062.27 feet; thence S00°36'00"W, 0120.00 feet; thence S89°24'00"E, 0175.24 feet; thence S32°54'00"W, 0338.64 feet; thence S30°00'00"W, 0182.05 feet; thence S28°20'00"W, 0149.40 feet; thence S22°48'00"W, 0191.47 feet; thence S10°16'00"W, 0258.90 feet; thence S00°36'00"E, 0214.49 feet; thence S07°10'00"E, 0148.82 feet; thence S13°46'00"E, 0149.78 feet; thence S21°28'00"E, 0282.83 feet; thence S30°08'00"E, 0328.60 feet; thence S00°20'00"W, 0266.83 feet; thence N89°14'55"W, 2381.59 feet; thence N00°14'30"E, 2647.41 feet; thence S89°23'01"E, 2323.28 feet to the point of beginning of this description.