

R 005-21083

DECLARATION OF CONDITIONS, COVENANTS,
RESTRICTIONS, AND EASEMENTS

816795

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, Five O's Development, Inc., is the owner of real estate platted as Misty Meadows, a subdivision in Waukesha County, Wisconsin, which plat is recorded in Volume 38 of Plats, on Pages 40 and 41, as Document No. 806245, in the office of the Register of Deeds for Waukesha County, Wisconsin.

AND WHEREAS, the undersigned owner desires to impose certain restrictive covenants on the land in said plat for the purpose of providing harmonious development and preserving the natural beauty of said real estate, and to govern the use and development of the outlots for the common enjoyment of homeowners in the plat.

NOW, THEREFORE, the undersigned does hereby covenant and declare that the following restrictions shall apply to all land within said subdivision, and that the same is incorporated by reference in all deeds and conveyances executed by the undersigned conveying land in said subdivision, and in all subsequent conveyances thereof by other persons, and that these restrictions and covenants shall run with the land and be binding on all parties owning said land for a period of twenty-five (25) years from the date of recording of this instrument, after which time said covenants shall be automatically extended for successive period of ten (10) years unless an instrument signed by a majority of the owners of the lots in said plat has been recorded agreeing to change or terminate these provisions in whole or in part.

I. ARCHITECTURAL CONTROL

No building shall be erected, placed or altered on any lot until the construction plans and specifications, and a plan

showing the location of the structure, have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line under applicable ordinances unless similarly approved.

II. MEMBERSHIP IN COMMITTEE

The Architectural Control Committee shall be composed as provided in the Articles of Incorporation and By-Laws of Misty Meadows Homes Association, Inc., and exercise the powers and duties therein set forth.

III. COMMITTEE PROCEDURE

The committee's approval or disapproval, as required in these covenants, shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove plans and specifications within thirty (30) days after submission, approval will be presumed and the property owner may commence building.

IV. ENFORCEMENT

If any part of this declaration is violated, it shall be lawful for Misty Meadows Homes Association, Inc., and, should it refuse to act within thirty (30) days after written demand, then for any other person owning real property subject to the provisions of this declaration, or the municipality in which the land is located, to prosecute any proceedings in law or in equity by injunction or otherwise against the persons violating, or attempting to violate, these covenants, and to prevent him or them from doing so, or to recover damages for such violation, which such damages if recovered shall belong to Misty Meadows

Homes Association, Inc. This provision for enforcement shall also be applied where violation is threatened, contemplated or imminent, and it shall not be necessary for the violation to have actually occurred before the remedies herein provided can be applied.

V. SEVERABILITY

If any part of this Declaration of Conditions, Covenants, Restrictions and Easements shall be held invalid or unconstitutional, such decision shall not affect the validity of any other part hereof.

VI. BUILDING SITE

A building site shall mean one or more lots in the subdivision, as recorded, on which there is one single family residence or which shall qualify for such use, or a duplex, where permitted.

VII. ASSESSMENT BY TOWNSHIP

In the event the Town of Oconomowoc shall at any future date assume the maintenance of the open space (as platted), (outlots) either at the request of the Misty Meadows Homes Association, Inc., or because said Association is not maintaining said open space to the satisfaction of the Town of Oconomowoc, the Town of Oconomowoc shall have the power and authority to levy and collect a special assessment annually from each building site in the Subdivision for the cost of the operation and maintenance of the open space within Misty Meadows Subdivision. For these purposes the Subdivision shall constitute an assessment district, and there shall be no limitations as to the amount of these assessments provided they shall not exceed the actual cost thereof.

VIII. CHARGES, ASSESSMENTS AND SPECIAL
ASSESSMENTS AND LIEN

All building sites in the above plat shall be subject to a general, annual charge or assessment as determined by the Board of Directors of Misty Meadows Homes Association, Inc., for the purposes as described in the Articles of Incorporation and By-Laws of Misty Meadows Homes Association, Inc., and at the times therein specified and with those penalties therein provided for, from time to time, including those rights and powers as provided in Section 289.70 Wisconsin Statutes. The amount of such assessment to be limited only by actual costs. If such charges are not paid when due, the party obligated shall pay in addition to the amount of such lien and interest, the costs of collection, and a reasonable amount of attorneys fees incurred for such collection.

IX. LAND USE AND BUILDING TYPE

No lot shall be used for other than residential purposes, and no building shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling, not to exceed two stories in height and a private garage for not more than three cars, except that a duplex may be built on each of lots 4, 5, 6, and 7, not to exceed two stories in height. This does not apply to outlots.

X. QUALITY AND SIZE OF STRUCTURES

The ground floor area of single family dwellings, exclusive of open porches, garages and breezeways, shall be not less than 1300 square feet exterior measurements for one story dwellings, nor less than 900 square feet for two story dwellings. For duplexes, the total square foot area, exclusive of open porches, garages and breezeways, shall be not less than 1300

square feet for each unit and if of two stories, the ground floor area shall be not less than 650 square feet.

XI. GARAGE NECESSARY

Each dwelling unit shall have at least a one car garage and not more than a three car garage. No truck or bus may be parked on premises outside of a garage other than for delivery purposes and motor homes, trailers, campers and similar vehicles shall be kept in a garage when not in use, except as approved by the Architectural Control Committee.

XII. STRUCTURE SETBACKS

No structure shall be erected in this subdivision which is less than fifty (50) feet from the front property line, less than twenty (20) feet from a side property line, or less than thirty-five (35) feet from the rear property line, except street signs and street lamps.

XIII. LOT SIZE

All dwellings or duplexes must be constructed on lots as platted or combinations of two or more lots and in compliance with applicable zoning regulations.

XIV. NUISANCES

No noxious or offensive trade, business, or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Enforcement of this provision shall be either by suit to enjoin such activity, or any other applicable legal remedy.

XV. TEMPORARY STRUCTURES

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings, shall be used on any lot at any time as a residence, either temporarily or permanently.

XVI. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

XVII. LIVESTOCK AND POULTRY

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or one of each or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purposes.

XVIII. SEWAGE DISPOSAL

No individual sewage disposal system shall be permitted on any lot unless such system is designed, located and constructed in accordance with the requirements, standards and recommendations of the State of Wisconsin and the Town of Oconomowoc. Approval of such system as installed shall be obtained from such authority and approval as to position of the sewage system must be obtained from the Town of Oconomowoc authority and that said sewage disposal facility shall be located only in areas on said lot approved by said building inspector.

XIX. INTERPRETATION

The within provisions are to be interpreted and applied in conjunction with the Articles of Incorporation and By-Laws of Misty Meadows Homes Association, Inc., a non-profit Wisconsin Corporation organized for the purposes stated in its Articles of Incorporation for the benefit of the owners of land in this plat.

XX. OWNERSHIP OF COMMON AREAS AND MEMBERSHIP IN MISTY MEADOWS HOMES ASSOCIATION, INC.

The common areas shown on the plat of Misty Meadows, and

designated as outlots are to be owned by Misty Meadows Homes Association, Inc. Owners of lots in this subdivision are by virtue of such ownership, members of such Association as defined in the Articles and By-Laws and entitled to the rights therein conferred and by acceptance of title to such lot obligated to comply with the requirements thereof.

XXI. USE OF OUTLOTS

The outlots in this plat are intended for the common use and enjoyment of all lot owners in the plat, for such uses as private walks, bicycle paths, recreational park areas and plantings and such other uses as the Board of Directors of Misty Meadows Homes Association, Inc. shall approve.

XXII. ADDITIONS TO PLAT

The provisions of this declaration and of the Articles and By-Laws of Misty Meadows Homes Association, Inc., shall apply not only to the land presently platted as Misty Meadows, but also to the additional contiguous land owned by Five O's Development, Inc. and which is included in the preliminary plat of Misty Meadows, when and as the same are platted.

IN WITNESS WHEREOF, Five O's Development, Inc. has caused these presents to be executed by LeRoy Gennerman, its President, and countersigned by Lawrence E. Rolefson, its Secretary, and its Corporate Seal to be affixed at Oconomowoc,

