4726524

REGISTER OF DEEDS
WAUKESHA COUNTY, WI
RECORDED ON

June 30, 2023 01:54 PM
James R Behrend
Register of Deeds

18 PGS
TOTAL FEE:$30.00
TRANS FEE:$0.00

Book Page -

Return to: Tomich Investments X, LLC
N8 W22520-L Johnson Dr.
Waukesha, WI 53186

EXHIBIT D
DECLARATION OF RESTRICTIONS
FOR
NORTHERN OAKS

This Declaration is made this 29th day of June 2023 by Tomich Investments X, LLC, hereinafter the "Developer".

WHEREAS, Developer is the owner of the property commonly known as the Northern Oaks Subdivision, in the City of Brookfield, Waukesha County, Wisconsin, more particularly described on the attached Exhibit A; and

WHEREAS, Developer desires to subject the residential lots in said Northern Oaks Subdivision to the conditions, restrictions, covenants, reservations and easements contained herein for the benefit of the said property and for the benefit of each owner of any part thereof and for the purpose of creating a desirable utilization of land in an aesthetically pleasing residential environment.

THEREFORE, the Developer hereby declares that the real property described on the attached Exhibit A, shall be held, sold, conveyed, transferred, used and improved only subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth which shall inure to the benefit of the Developer, its successors and assigns, and to all parties hereafter having any interest in the property.

1. BINDING EFFECT AND DEFINITIONS

This Declaration of Restrictions shall become effective immediately upon the recording hereof with respect to the property described on the attached Exhibit A.

The terms "Northern Oaks", "Northern Oaks Development" and "Subdivision", as used in this Declaration of Restrictions, are defined as the property described on the attached Exhibit A.

The term "Lot" as used in this Declaration is hereby defined as each separate buildable parcel of real estate existing now or in the future which is created by any land division done in accordance with all applicable laws and regulations, and in compliance with all restrictions set forth in this Declaration, of the lands subject to this Declaration.

The terms "Common Area" or "Outlot" are defined as any outlot, boulevard, detention or retention area, or other area within the subdivision which is not a lot nor a dedicated street nor other dedicated area for which the City of Brookfield has assumed responsibility for maintenance. Each owner of a lot shall have an undivided 1/49th ownership interest in the common outlots (except outlot #7, #9, #10, & #11) and the Owner's Association shall be responsible for the maintenance of all common areas and common outlots (excluding outlot #9 & #11). The Owner's Association will be responsible for the repair or maintenance of any monument or common landscape amenity that is installed in a public right of way or in any landscape easement.

2. GENERAL PURPOSE

The general purpose of these restrictions is to assure that Northern Oaks will become and remain an attractive, high quality residential community and to that end to preserve and maintain the natural beauty, to insure the best use and the most appropriate development and improvement of building sites within the property; to protect owners of building sites against such use of surrounding sites as may detract from the residential value of their property; to guard against and prevent the erection of poorly designed or proportioned structures on any part of the property; to obtain harmonious use of materials and color schemes in improvements; to insure the highest and best residential quality of the property; to encourage and secure the improvements of the property with attractive homes with appropriate locations thereof on the building sites; to secure and maintain proper spatial relationships of structures to other structures and lot lines; and generally to insure the highest and best residential development of the property.

3. INTERPRETATION

It is inherent to protective covenants and restrictions that from time to time those covenants and restrictions are subject to interpretation. In those instances wherein an interpretation is required because there is no definitive rule to be followed, or because there is a question regarding an intangible concept such as, but not limited to, what constitutes harmonious architectural design, what is poor design or proportion and what is aesthetically pleasing, the matter shall be subject to the opinion of the Architectural Control Committee for the granting of a final approval.

4. ARCHITECTURAL CONTROL COMMITTEE

An Architectural Control Committee (hereinafter the "Committee") for Northern Oaks Subdivision is hereby established. The Committee shall consist of not less than three members, designated as hereinafter set forth. The decision of the majority of the members of the Committee shall be final and binding upon all parties. The Committee members shall not be entitled to compensation for services performed pursuant to this paragraph. The initial members of the Committee shall be appointed by the Developer, and the Developer shall be entitled to remove and replace members of the Committee, at its sole discretion, as long as there remains any vacant lot in the subdivision; thereafter, the Committee shall consist of the Board of Directors of the Owner's Association, established as hereinafter set forth, provided said Owner's Association is in existence. If the Owner's Association is not legally in existence at any time after which there is no longer any vacant lot in the subdivision, the Committee shall continue in existence with its then existing members, and Committee members shall be subject to removal, replacement and/or appointment as follows: by majority vote of the Committee members in attendance at a Committee meeting called by any one or more Committee members for that purpose; and/or by majority vote of lot owners in attendance at a meeting of lot owners called by any one or more lot owners for that purpose. Lot owner meetings called to remove, replace and/or appoint Committee members shall require not less than 10 days written notice to at least one owner of each lot, by personal delivery or by First Class U. S. Mail addressed to the last known owner and address as shown on the Tax Roll.

5. ARCHITECTURAL CONTROL

No building, swimming pool, gazebo, fence, wall, deck, patio, sport court, driveway, light post, landscaping or other structure or improvement shall be constructed, erected, placed or altered on any lot in Northern Oaks Subdivision without the approval of the Architectural Control Committee. For any undertaking requiring approval of the Architectural Control Committee, a set of plans [including building construction plans (with roof, siding, brick, stone, stucco and trim colors), site plans, and grading plans (where necessary)] shall be submitted to the Architectural Control Committee. If and when plans are approved, the approved plans shall be signed, dated, and returned by the Architectural Control Committee to the lot owner as evidence of such approval. Any changes or revisions required by the Architectural Control Committee shall first be made to the plans by the owner's agent before approval is given. Once the Architectural Control Committee's approval has been given the plans shall be strictly adhered to by the lot owner, unless subsequent changes are approved by the Architectural Control Committee. Landscaping plans shall be done by a professional designer and submitted prior to any work being started.

In passing upon the plans and specifications, the Committee may take into consideration the suitability of the proposed building or other structure or improvement, its design, elevation, color, construction materials, the harmony thereof with surrounding buildings, its proposed location, the view from other properties in the subdivision, and such other matters of terrain, environmental impact, aesthetics, and impact upon other lots in the subdivision as the Committee may deem appropriate. The Committee shall have the right to waive minor infractions or deviations from these restrictions in the case of hardship and/or common sense. Any action by the Committee shall be final and conclusive as to all persons then or thereafter owning lots covered by these restrictions. The Committee shall not be liable for actions taken or decisions made in good faith.

In addition to the requirements of these restrictions, all construction shall comply with applicable zoning and building code requirements. It is not intended that the Committee have full knowledge of, or expertise in, matters of zoning, building codes or proper drainage. The Committee shall have no liability or responsibility in the event it approves plans which fail to comply with applicable zoning or building codes, and/or which fail to properly handle drainage. In the event that approved plans violate applicable zoning or building codes, or fail to properly handle drainage, it shall be the sole responsibility of the lot owner to discover and determine the error, to have the appropriate corrections made to the plans, and to resubmit the corrected plans to the Committee for its approval.

6. DWELLINGS AND OTHER STRUCTURES

Except for lots 48-49, all lots shall be used only for single-family residential purposes, and such recreational purposes permitted by this Declaration and applicable zoning. All dwellings shall be designed by a home designer, registered architect or equally qualified individual or firm.

It is specifically intended, by the architectural control provisions set forth herein, that there be a compatibility of architectural styles amongst the various homes that are in close visual proximity to one another, while at the same time retaining diversity so as to avoid the monotony of duplication. Toward this end, the Architectural Control Committee may evaluate and approve the use of a particular architectural style of home on any given lot in the subdivision. In making that evaluation the Architectural Control Committee may consider the proposed residence in relation to existing homes or previously approved (conceptual or final) homes that will be in close visual proximity to the proposed residence.

50% of the front of the residences shall be masonry, consisting of brick, stone, cultured stone/brick, Dryvit, and/or stucco and must terminate at an inside corner or have an acceptable terminating point, as determined solely by the Architectural Control Committee. The committee at its sole discretion may require more or less than 50% masonry if architectural style dictates. The other sides of the home's exterior siding shall consist of LP siding, cement board siding, natural stone, cultured stone, brick or stone, Dryvit, stucco and/or stucco panels. Additional brick, stone, cultured stone/brick, Dryvit, stucco and/or stucco panels, may be required on other elevations of the home, at the sole discretion of the Architectural Control Committee (no vinyl or aluminum siding will be allowed). Further, the Architectural Control Committee, in its sole discretion, shall have the right to permit or prohibit the use of cedar, composite wood, and/or other types of siding as it may deem appropriate to preserve the architectural integrity and quality appearance of dwellings in the subdivision. No exposed poured concrete or concrete block over eight (8) inches above grade shall be permitted on any house. Any exposure over eight (8) inches, below the first floor, must be covered by brick and/or stone, Dryvit, stucco or cultured brick or stone, stucco panels, or siding. The roofing of all dwellings shall consist of dimensional asphalt shingles in. The Architectural Control Committee, in its sole discretion, may permit or prohibit the use of other types roofing materials (such as tile, cement, metal or cedar) having substantially the same appearance as the permitted materials, as it may deem appropriate, to preserve the architectural integrity and quality of appearance of dwellings in the subdivision. Further, the Architectural Control Committee may, in their sole discretion, permit the use of such other forms of high quality and aesthetically pleasing roof materials as may be available now or in the future, including but not limited to masonry and/or copper for accent areas only as long as they are non-combustible or Class A fire rated. The main portion of the roof shall have a minimum pitch of 8/12 for a two-story and 10/12 for a ranch style home. A lesser pitch over other areas, such as porches, breezeways and bays, may be permitted or denied at the sole discretion of the Architectural Control Committee. Lesser pitch roofs also can be approved by the ACC at their sole discretion if the architectural style of the home warrant such a pitch.

If shutters are used, then the ACC may require them to be used on all elevations. Window wraps and window grids must be used on all windows unless architectural style and ACC allows the elimination of these features.

All homes shall include an attached garage with a minimum of 600 square feet. The Architectural Control Committee, at its sole discretion, may prohibit any attached garage, which has an exterior appearance of having a capacity of more than 4 cars. Garages are to be side entry where possible. Angled & front entry garages may be permitted at the sole discretion of the Architectural Control Board. No detached garages shall be permitted.

Except lots 48-49, no storage shed shall be allowed on any lot. Other types of outbuildings, such as pool equipment and/or changing room facilities may be allowed, providing they are approved, as to design, location and landscaping, by the Architectural Control Committee. No outbuilding shall be constructed on any lot prior to the commencement of construction of the single-family residence on such lot. All lot owners are further advised that outbuilding construction is also subject to applicable zoning ordinances, and may be prohibited or restricted unless a variance or conditional use permit is obtained.

7. MINIMUM SQUARE FOOTAGE REQUIREMENTS

Houses constructed in Northern Oaks Subdivision shall have a minimum square footage of living space as follows:

i. One-story houses shall have a minimum square footage of living space of not less than 2,400 square feet.

ii. One and one-half story houses shall have a minimum square footage of living space of not less than 3,200 square feet total. 1st floor square footage not less than 1,600.

iii. Two-story houses shall have a minimum square footage of living space of not less than 3,200 square feet total. 1st floor square footage not less than 1,600.

Living space is determined by the outside dimensions (exclusive of garages, porches, patios, breezeways and similar additions) of the exterior walls of above grade, finished living space. In no event shall floor space which is partially or completely below finished yard grade (such as basement space, whether or not exposed, and/or the lower level of a split level) be counted for purposes of determining minimum square footage of living space. The minimum square footage shall be determined as of the time of initial construction, and shall not consider or include unfinished areas or future additions.

The Architectural Control committee, in its sole discretion, may grant approval for any house on any lot with square footage up to five percent (5%) less than the minimum required above, provided; however, in no event shall any house be constructed on any lot with square footage below the minimum standard of the City of Brookfield.

8. COMMENCEMENT OF AND COMPLETION OF CONSTRUCTION

Before any construction shall be commenced on any lot the driveway shall be rough graded in a horizontal location and with a vertical alignment as approved by the Architectural Control Committee. All access to and from the home site construction area by material suppliers, contractors and other individuals shall be by this driveway location and no other means or way. This covenant is primarily for the protection of natural amenities of the site.

Any exterior construction commenced shall be completed within a fourteen (14) month period and shall be ready for occupancy within that period. Also, within six (6) months of occupancy or within twenty (20) months of the commencement of construction, whichever date shall be shorter, the owner of such lot shall landscape any area disturbed by construction, and shall complete all landscaping in accordance with the plans and specifications approved by the Architectural Control Committee.

During the time of construction the lot owner shall be responsible to see that his or her contractor maintains a constant cleanup of all scraps, paper or other waste materials, and all dirt and mud tracked onto public streets, and that all access to the site is through the approved driveway, and by no other means or way. The lot owner shall further be responsible for the repair of any and all damage to the public right-of-way adjacent to the lot, including but not limited to any pavement, sidewalk, curb, gutter, ditch, swale and/or culvert, and to any drainage ditches,

swales and/or other drainage facilities on the lot, occurring prior to completion of construction. In the event that the owner or his contractor shall fail in this responsibility the Developer shall have the right to perform the necessary cleanup and/or make the necessary repairs and to charge the construction deposit and/or obtain reimbursement for the expense incurred by the Developer or Owner's Association, as the case may be, as set forth in Paragraph 9 below.

During any earth moving activities, proper erosion control practices shall be installed to prevent sediment entering storm water drainage ways or leaving the immediate construction site. Erosion control including the stabilization of each lot with permanent grass must comply with the City of Brookfield Erosion Control Ordinance.

9. CONSTRUCTION DEPOSIT

At the time of closing on a Lot a Construction Deposit in the amount of Two Thousand Five Hundred Dollars ($ 2,500.00) shall be collected from the Lot owner and held by the Developer. These funds are transferable to subsequent buyers of a Lot after the initial sale by Developer. These funds are to ensure compliance with these covenants and restrictions dealing with contractor cleanup, use of the approved driveway and repair of damage to pavement, sidewalks, curbs and gutters, to ensure compliance with the landscaping and tree planting requirements set forth in this Declaration, and to assure compliance with the architectural covenants, restrictions and requirements contained herein and as approved by the Architectural Control Committee. In the event the Lot owner and/or his or her contractors fail to comply with the cleanup requirements and/or the use of the approved driveway, and/or repair of any damaged sidewalks, curbs and/or gutters and/or the landscaping and tree planting requirements set forth in this Declaration, and in the event the Developer or Owner's Association, as a result of such noncompliance, undertakes any cleanup or repair and/or is charged or assessed by the City of Brookfield for same, the Developer or Owner's Association shall be entitled to deduct and retain from the Construction Deposit a sum sufficient to reimburse Developer or Owner's Association for all costs and expenses incurred by Developer or Owner's Association for such cleanup and/or repair. Developer alternatively has the right to keep the entire deposit and not undertake the repair. In the event the Lot owner and/or the Lot owner's contractors fail to comply with the architectural or other requirements or provisions of this Declaration of Restrictions, and in the event Developer or Owner's Association retains an attorney to pursue enforcement of said requirements and/or provisions, the Developer or Owner's Association shall be entitled to deduct and retain from the deposit a sum sufficient to reimburse Developer or Owner's Association for all costs and expenses, including but not limited to a reasonable actual attorney's fees, incurred by Developer or Owner's Association with respect to such enforcement. In the event the deposit amount is not sufficient to fully reimburse Developer or Owner's Association for cleanup and/or repair expenses, charges and/or assessments, and/or for costs, expenses and reasonable attorney's fees relating to enforcement of architectural requirements, the owners of the lot shall be jointly and severally liable to Developer or Owner's Association for any excess and shall constitute a lien on the Lot. Developer alternatively has the right to keep the entire deposit and not undertake the repair. In the event that no deductions are made, or in the event there is a balance remaining after all deductions, upon the owner's request, the balance in the escrow account shall be returned to the current owner so long as the final lift of asphalt has been completed in the Subdivision. In order for such request to be valid, said request must be submitted in writing to Developer within two years of the initial lot purchase from the Developer, home construction must be complete, and a lawn must be established, as required in Section 19 of these Restrictions and all aspects of these restrictions must be met along with all the improvements including structures, driveways, patios, decks, landscaping must approved by the ACC prior to install; failure to do so will result in forfeiture of said deposit.

10. TREES AND LANDSCAPING

Buyer is required to purchase and install two (2) street trees (corner lots will require four (4) street trees) at front of each lot installed on the front 10 feet of the lot following the road right-of-way, excluding easements and utility locations, and trees must be a 4" to 5" caliper measured at 6" above top of ball with species approved by the Architectural Control Committee. The Lot owner is responsible for protecting and maintaining said trees, including watering, mulching and fertilizing as needed. In the event the Lot owner fails to properly protect and maintain said trees, the lot owner shall promptly replace any dead or dying tree, and shall continue to protect and maintain same. In the event the location of any such tree interferes with the lot owner's driveway location, the Lot owner shall be responsible for moving such tree at the Lot owner's expense. The street and landscaping must comply with the City of Brookfield's site development standards for residential lots.

Landscaping, consisting of a mix of evergreens, trees and shrubs, are being installed on and along Lannon Rd. The Owner's Association is responsible for the maintenance of such landscaping, including trimming, watering, mulching and fertilizing as needed. The Owner's Association shall replace any dead or dying tree or shrub as necessary.

Additional landscaping and a possible subdivision entrance monument will be installed at the entrance. The Owner's Association will maintain this landscaping and monument which is located in the City of Brookfield.

The Owner's Association shall also be responsible for the care and maintenance of any trees or shrubs planted on the cul-de-sacs or outlots.

No existing live tree with a diameter of eight inches or more at a height four feet above ground shall, without approval of the Architectural Control Committee be cut down, destroyed, mutilated, moved or disfigured. All existing trees shall be protected during construction and preserved by wells or islands and proper grading in such a manner as may be required by the Architectural Control Committee. Existing live trees with a diameter of eight inches or more at a height four feet above the ground shall be considered by the Architectural Control Committee in granting approval for the location of the house, driveway and any and all other structures on any lot. The provisions of this paragraph do not apply to any tree located more than 250 feet from the nearest common lot line with any other lot in the subdivision.

11. BUILDING SETBACKS

It is one of the intentions of the covenants and restrictions to create a completed community whose site plan is varied and well integrated to the overall site surroundings as well as the specific lot.

All lot setbacks shall be approved in writing by the Architectural Control Committee. The minimum setbacks for a Single – Family Residence shall be:

1. Fifty (50) feet from any abutting street right-of-way.
2. Twenty-Five (25) feet from any side yard.
3. Twenty-Five (25) feet from any rear yard (50' for lots 4-11 abutting Lannon Road).
4. Fifty (50) feet from adjacent pond 100-year water elevations.
5. Any other requirements as shown on the approved preliminary plat.

If any lot owner desires to rotate its proposed single-family residence to face toward the corner of a lot, the Architectural Control Committee reserves the right to determine the street yard setbacks that the declarant believes to be most beneficial to the overall appearance of the subdivision in compliance with the Brookfield Municipal Code.

The site plan for each lot will be reviewed with respect to achieving the above goals and avoiding monotony or noticeable similar placement of homes to those existing or previously approved. In achieving these goals, offsets greater than those specified above may be required by the Architectural Control Committee. Further, the Architectural Control Committee, in its sole discretion, may alter the offsets to the minimum allowed by the City of Brookfield if it determines, in its sole discretion, that terrain conditions and/or preservation of existing trees so require. Other zoning restrictions may apply.

12. DRIVEWAYS

The owner of each lot shall, within six (6) months of the date of issuance of an occupancy permit of a residence on a lot, install a hard surfaced concrete, brick or stone paver, or asphalt driveway. Said driveway shall extend from the vehicle entry to the garage to an intersection with the public street.

13. HEIGHT OF GRADE AND BUILDING PADS

No owner of any lot, nor any person or persons claiming under the lot owner, shall or will at any time alter the grade of any lot or outlot from that which is naturally occurring on that lot at the time the site development improvements have been completed by the Developer, except to the extent required to comply with the Master Grading Plan or any amendment thereto approved by the City of Brookfield Engineer on file in the office of the City of Brookfield Clerk, unless and until the property owner shall first obtain the written approval of the Architectural Control Committee and the City of Brookfield for such grade alterations.

In order to obtain this approval it shall first be necessary for the property owner, at his or her expense, to have prepared a grading plan which shows in detail the area to be re-graded, the existing and proposed topography, analyzes the effects on site drainage, and is a plan which does not unreasonably affect an adjacent lot owner as regards drainage or their viewing of unreasonable slope treatment.

Each lot owner must strictly adhere to and finish grade their lot in accordance with the Master Lot Grading Plan or any amendment thereto approved by the City of Brookfield Engineer on file in the office of the City of Brookfield Clerk. The Committee and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the lot owner is responsible for cost of the same.

Subdivision grading has been performed with the intention that home construction on each lot take place within a building pad area as shown on the Master Grading Plan. Construction of the home and/or other improvements beyond the limits of such building pad area may result in an increased risk of encountering adverse subsoil conditions.

14. NUISANCES

No noxious or offensive activities shall be carried on upon any lot or outlot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

15. OUTDOOR STORAGE

No boat, unlicensed vehicle, inoperable vehicle (see Section 15.04.480.D.9 for City's code requirements), recreational vehicle, vehicle licensed as a commercial truck (Section 15.04.490 of the Municipal Code prohibits certain commercial vehicles from being parked on residential lots), or trailer of any kind may be parked or stored on any lot outside of a building for any time period in excess of 24 hours in any calendar week, except for trucks and/or trailers used during construction or remodeling periods. The term "recreational vehicle" shall mean any vehicle used primarily for pleasure or recreation, and shall include, but not be limited to: snowmobiles, trail bikes, travel trailers and campers, motor homes, and off road vehicles of any kind.

16. UTILITY RESTRICTIONS

All lots shall be provided with electric, natural gas, and telephone service by means of underground installation only. No residence or other building or structure on any lot shall be serviced by the use of any secondary overhead service wires. All costs and expenses involved in installing underground utility service connections on any lot between the utility companies' secondary pedestals and the buildings on any lots shall be paid by the owner of said lot.

17. ANIMALS AND LIVESTOCK AND POULTRY

No animals, livestock or poultry shall be raised, bred or kept on any lot, except that dogs, cats and/or other customary household pets shall be permitted provided they are not raised, bred and/or kept for commercial purposes.

18. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one sign not more than two square feet in size identifying the property of the owner, one sign not more than six square feet in size advertising the property for sale or rent, a sign used by a builder to advertise a residence for sale, or as a model home, but only during the construction and sales period, such signs as may be used by the Developer in conjunction with initial lot sales in the subdivision, or one or more subdivision entrance signs erected by the Developer and/or by the Association. A larger model home sign, not to exceed 12 square feet (this will require a sign permit per Section 15.16.170 of the Municipal Code) may be allowed with Architectural Control Committee approval.

19. LAWN AND YARD

In addition to the normal maintenance and mowing of lawn areas on a lot, the owner of each lot shall also maintain the lawn and yard area in front of the lot from the property line (front lot line) to the back of the curb and gutter section or shoulder of the public roadway. In addition to mowing the area between the lot line and the road, the lot owner shall keep this area free of debris and in all other ways properly maintained. Notwithstanding the foregoing, the Association, in its sole discretion, shall have the right, but not the responsibility, to undertake mowing and/or other lawn maintenance within the outlots, as created by this Declaration, together with the area between the front lot line and the road, throughout the subdivision, and to charge the cost thereof as a common expense.

20. ANTENNAE

No exterior antennae, other than one dish type antenna not exceeding thirty (30) inches in diameter, shall be allowed on any lot.

With respect to dish antennas not exceeding thirty (30) inches in diameter, they shall not be attached to the front of any house, nor shall same be located in the front yard of the residence nor located in the setback or offset areas, per Brookfield Municipal code Section 15.05.410.

21. FENCES

It is the intention to preserve the open natural feeling of Northern Oaks Subdivision's environment. Therefore, no barrier fences or containment fences may be erected on or adjacent to any lot line. With regard to swimming pools, only fencing required to meet governmental regulations will be permitted.

22. MAILBOX

Per the direction of the Postmaster all mailboxes will be clustered in one central location. Purchasers of lots from the Developer shall reimburse the Developer for costs to supply & install the cluster mailbox. The Owner's Association shall have the right to assume all or part of the responsibility for maintaining, repairing and/or replacing mailboxes and to charge the cost thereof as a common expense. To the extent not assumed by the Association, the lot owner shall be responsible for maintaining the mailbox in a first class condition at all times.

23. ELECTRIC LAMPPOST

At the time of construction of a residence, the owner of residence shall install, at the owner's expense, one (1) outdoor electric lamppost (the design and quality of which shall be specified by Declarant), with an unswitched photoelectric cell, at a location on the lot deemed appropriate to the subdivision, at the Declarant's discretion. Purchaser of lots from Developer shall reimburse Developer at time of closing for such lamppost. The lamppost shall be maintained by the owner, at the owner's expense, in a proper operating manner. If the owner fails to maintain the lamppost in proper operating order, maintenance of the lamppost may, fifteen (15) days after date of mailing of written notice to the owner, be performed by the Declarant and/or the Association, and the cost of such maintenance shall be a Special Assessment against the owner.

24. ASPHALT PATHS

Certain Outlots within Northern Oaks Subdivision have or will have asphalt paths. Owners Association will be responsible for the care and maintenance of all paths except for those located on City outlets or maintained by the City through an easement agreement. This will not necessarily include snow and ice removal.

25. EASEMENTS

The Developer at its sole discretion may grant easements to the public utilities that will service the lots at Northern Oaks Subdivision.

26. SWIMMING POOLS AND HOT TUBS

In-ground swimming pools shall be permitted, subject to the approval of the Architectural Control Committee, if they meet City and County ordinances and specifications. Above ground swimming pools are prohibited. Hot tubs and spas are permitted only if they are permanent. Architectural Control Committee approval is required for all units. If placed on a concrete slab, the slab requires approval as well. Portable units are not allowed.

27. COMMERCIAL LOTS

Included within Northern Oaks along Lisbon Road are two commercial lots (48 & 49). These lots are zoned light industrial/commercial mixed use District No. 1 (Chapter 17.81). These lots will have their own ACC guidelines yet to be established.

28. GOVERNMENT RESTRICTIONS

The Developer, its successors and assigns, and all parties hereafter having an interest in the property, are subject to all rules, codes, regulations and ordinances of the City of Brookfield, Waukesha County, the State of Wisconsin and the Federal Government, and the same may be more restrictive than these restrictions. In the event there is a conflict between the requirements of these restrictions and any provision of any City, County, State or Federal law or regulation, the more restrictive provisions shall apply. Nothing herein authorizes any modification of, nor does it authorize the Architectural Control Committee to modify in any way, the rules, codes, regulations and ordinances of the City of Brookfield, Waukesha County, the State of Wisconsin and the Federal Government. No release or waiver by the public body and/or public utility requiring same shall be effective unless it is in writing and approved by the governing body.

To the extent that any specific restriction contained herein is the same as, or is substantially similar to, any specific restriction set forth in or on the subdivision plat, the Subdivider 's Agreement, and/or any approval obtained in conjunction with the development of this subdivision, the inclusion of such restriction herein shall be deemed to constitute the recitation of the restriction required by the public body and/or public utility requiring same, such that same may be enforced, released or waived by the public body and/or public utility having the right of enforcement, in accordance with Sec. 236.293, Wis. Stats., whether or not enforcement rights with respect to such specific restriction are also granted herein to the Owner's Association and/or any other lot owner. The foregoing shall apply only with respect to specific provisions hereof which were specifically required by a public body, and shall not apply to any general

requirement that the Developer establish subdivision restrictions, any general approval of these restrictions by any public body, and/or the mere fact that a public body and/or public utility is granted any enforcement rights herein.

29. SUBDIVIDER'S AGREEMENT

A Subdivider's Agreement (Developer Agreement) has been entered into by and between the Developer and the City of Brookfield, a copy of which is on file in the office of the City Clerk of the City of Brookfield.

30. AMENDMENTS TO DECLARATION

This Declaration may be annulled, waived, changed, modified or amended solely by the Developer or assigns as long as the Developer or assigns owns any lot in the subdivision. Then thereafter, any modification to this declaration setting forth said change, must be executed by the owners of at least sixty percent (60%) of the lots in the subdivision. Notwithstanding the foregoing, annulments, waivers, changes, modifications or amendments must be approved by the City of Brookfield in writing for the portions required by the Subdivider's Agreement or if so delegated by the City, the appropriate City personnel or committee. Further, no amendment shall become effective unless and until same is duly recorded in the office of the Register of Deeds for Waukesha County, Wisconsin. In the event there is more than one (1) owner of any lot in the subdivision, the execution of any amendment by any one (1) or more of said owners of such lot shall be deemed sufficient for the purpose of approving and executing any amendment, without the requirement that the other owner(s) of such lot join in the execution of such amendment, unless such other owner or owners of said lot have recorded in the Office of the Register of Deeds for Waukesha County, Wisconsin, prior to the date of execution of such amendment by any other owner of such lot, a notice setting forth the fact that approval of any amendment on behalf of such lot shall not be effective without the approval of the owner filing such notice. In no event shall this section be construed so as to require the Developer to obtain the approval of any lot owner to make any amendment to this Declaration, which is expressly permitted by any provision of this Declaration to be made by Developer alone.

31. ASSIGNMENT

All Developer's rights pursuant to this Declaration may be assigned by Developer to one or more successor developers.

32. ENFORCEMENT

The restrictions and covenants herein contained may be enforced by the Developer, by the Owner's Association created pursuant to the provisions of this Declaration of Restrictions, and/or by any lot owner in the subdivision, by proceedings at law or in equity against any person or persons violating or attempting to violate same. The proceedings may seek to recover damages and/or demand compliance. No enforcement action by the Developer, by the Owner's Association created pursuant to the provisions of this Declaration of Restrictions, and/or by any lot owner in the subdivision with respect to the construction, placement or alteration of any structure or improvement on any lot shall be commenced more than one (1) year after the completion of the construction, placement or alteration of such structure or improvement. Nothing herein contained shall be construed so as to require that the Developer or the Owner's Association undertake any enforcement action.

33. TERM

These restrictions shall run with the land and shall be binding upon all parties and persons having any interest in the land affected hereby for an initial period of forty (40) years from the date this Declaration of Restrictions is recorded, and thereafter shall continue for the full duration of the statutory limitation period for actions to enforce easements or covenants restricting the use of real estate (currently codified at Section 893.33 (6), Stats, but including any future amendments, modifications or re-numbering of that section).

34. SEVERABILITY

Invalidity of any provision of this Declaration, regardless of how determined, shall in no way affect any of the other provisions, which shall remain in full force and effect.

35. OWNER'S ASSOCIATION

An Owner's Association shall be created by the Developer for the purpose of managing the affairs of the subdivision, and for the purpose of managing, controlling and maintaining common areas, common improvements and common easements. Said Association shall be established as follows:

A. The Association shall be established as either a non-profit corporation or a non-profit association. Each lot owner shall be a member of the Association, and each lot shall be entitled to one (1) vote at meetings of the Association. Membership shall pass with title to each lot.

B. The Association shall be governed by a Board of Directors, consisting of not less than three (3) directors, who shall act by majority vote of these directors on all matters related to common area maintenance, collections, annual dues, billing, etc. The Board of Directors may take a full subdivision vote on any item they feel is needed at their discretion. So long as any lot in the subdivision is owned by Developer, Developer shall be entitled to appoint a sufficient number of the directors such that the directors appointed by Developer constitute a majority.

C. Each lot in the subdivision shall be subject to assessment by the Association for an equal share of the Association's existing or anticipated expenses, which assessments shall constitute a lien on the lot, and, except as set forth below with respect to Waukesha County and/or the City of Brookfield, the personal obligation of the lot owners, until paid. In the event Waukesha County and/or the City of Brookfield become the owners of any lot through the tax delinquency process, the foregoing provision shall not be deemed to supersede any law limiting or eliminating the liability of the County or the City with respect to fees or assessments imposed by this Declaration. Further, in the event Waukesha County and/or the City of Brookfield become the owners of any lot through the tax delinquency process, neither the County nor the City shall have any personal obligation for the payment of Association assessments.

D. "Special Assessments" may be made and levied by the Association against a particular Lot owner and his, her or their lot (without levying against other lots) for:

costs and expenses (anticipated or incurred) for repair of damage to common areas caused by or at the direction of the Lot owner or the family or guests of the Lot owner;

costs, expenses and actual attorneys fees incurred in, or in anticipation of, any suit, action or proceeding to enforce this Declaration against the Lot owner; interest due on general or special assessments;

all other costs and expenses anticipated or incurred by the Association which are subject to special assessments as provided under this Declaration; and costs, expenses and actual attorney's fees incurred in or in anticipation of, any suit, action or proceeding brought against the Owner's Association.

E. "General Assessments" may be made and levied by the Association equally against each Lot owner and his, her or their lot for the following "common expenses" which may be anticipated, incurred or paid by the Association for:

maintenance, repairs, upkeep or operation of common areas and any additional common areas that may be acquired by the Association;

any insurance maintained by the Association;

taxes, assessments and charges of any kind made or levied by any governmental authority against the Association or upon any property of the Association;

all costs and expenses for the operation and administration of the Association, including legal, accounting, management fees, bonding, insurance and other costs incident to the exercise of any of its powers or obligations;

costs and expenses for additional improvements to common areas beyond those installed by Developer and approved by the Association;

all items subject to special assessment which have not been collected from a Lot owner at the time such payments are due; provided that upon collection of the special assessment from that Lot owner, all other Lot owners shall receive an appropriate adjustment, reimbursement or credit on future general assessments, as the Committee may determine, for payments made under this paragraph;

all damages, costs, expenses and attorneys fees incurred in, or in anticipation of, any suit or proceedings (whether administrative, legislative, judicial) which are not otherwise collected by special assessment;

costs and expenses of service, if any, made available to all lots and/or for any common area;

all other costs and expenses declared to be common expenses under this Declaration.

The general assessments for all common expenses shall be levied equally against each lot.

Each Lot owner shall promptly pay, when due, all general and special assessments levied by the Association against such owner and his, her or their lot, together with all costs, expenses and reasonable attorney fees incurred by the Association in collection of any delinquent assessment(s). All assessments shall become due as the Association may determine appropriate (in a lump sum or in installments with or without interest.) Time is of the essence with respect to all payments.

All co-owners of a lot shall be jointly and severally liable for all general and special assessments levied against the lot, regardless of the type of tenancy, estate or interest in the lot (whether as joint tenants, tenants-in-common, land contract purchaser(s) or seller(s), or otherwise.)

All general and special assessments which are not paid when due: shall bear a $25 per month penalty plus interest at eighteen percent (18%) per annum until the assessment is paid in full; shall constitute a lien on the lot; and shall be collectible and enforceable by the Association by suit against the lot owner, by foreclosure or the lien, and/or in any other manner or method provided under this Declaration or laws of the State of Wisconsin.

The lien granted hereunder shall also cover and include all interest accruing on the delinquent assessments, plus costs, expenses and attorney's fees for collection.

The Association shall have the exclusive right and power to collect or enforce collection of all general and special assessments levied by the Association. They shall further have the exclusive right to bring any and all actions and proceedings for the collection thereof and/or the enforcement of liens arising therefrom. The Association may bring an action at law against any Lot owner personally to collect such assessments and/or to foreclosure the lien for such assessments against the lot (in the same manner and method as an action to foreclose a real estate mortgage.) The Association shall have the right at any time to notify all lot owners within the subdivision of the delinquency of any Lot owners.

F. The Articles and By-Laws of the Association shall contain such additional provisions, as Developer may deem appropriate at the time of establishment of the Association.

G. In the event any further division of any lot (whether by Subdivision Plat, Certified Survey Map, and/or other legal land division) creates additional residential lots within the subdivision, each lot so created shall have equal membership and voting rights in the Association, and be subject to assessment for an equal share of the Association's existing and anticipated expenses, with all other lots in the Subdivision.

36. OUTLOTS

The Northern Oaks Subdivision Plat Contains common areas designated as outlots 1, 2, 3, 4, 5, 6, & 8. Each lot in Northern Oaks shall be deemed to include an equal undivided ownership interest in the outlots above and each conveyance of a lot in Northern Oaks shall be deemed to include the conveyance of such undivided interest, whether or not specifically set forth in the instrument of conveyance. It is the intention of the Seller to retain ownership of outlets #7, #9, #10 & #11 to allow for possible acquisition from City of Brookfield or of additional lots in the future if and when they are no longer designated as wetlands or expansion of adjacent lots. Up until and if this happens, the Association will maintain the outlots as part of their responsibility and pay any property taxes and at their cost. As set forth on the Plat for Northern Oaks, the Developer has granted easements to the public for the use of the paths within the outlots. Developer further expressly retains the right to grant additional easements for the use of said outlots. The Developer may add additional lands and outlots to the Association at a later date. Any and all storm sewers and detention facilities locate on private property without a public easement shall remain private. The outlets where the stormwater management land, pipe, or facility is located shall be held in undivided interest by all owners within the subdivision, and they shall be responsible for Outlot(s) maintenance, repair, cleaning, and replacement responsibilities including the storm water pond and outfall located on the Outlot(s). Any filling, grading, or other alteration of any on site detention basin without prior approval of the City Board of Public Works is strictly prohibited. Should the lot owners fail to maintain the storm water facilities or land in conformance with the approved plan, the City shall have the authority to perform the maintenance and charge the costs, including but not limited to engineering, administration, and legal costs to the owners as a special assessment or special charge against their properties.

37. MAINTENANCE OF DRAINAGE EASEMENTS, PONDS, COMMON AREAS, SUBDIVISION SIGNAGE AND MONUMENTS AND STREET LIGHTS

The Owner's Association has the responsibility to properly landscape and maintain all common areas, street islands, trails and subdivision entrance signage within the subdivision, all portions of any entrance signs, entrance monuments, fencing and the landscaping associated with same which are located in whole or in part within any City of Brookfield right-of-way, and all non-standard street signs and streetlights. Said maintenance includes repair or replacement resulting from damage caused by any reason including snowplowing operations. Further, the Association without regard to reason, shall indemnify and hold the City harmless for any claim of liability or damage, regarding the signs, monuments, fencing or associated landscaping located within City right-of-ways. Subject to the provisions of Paragraph 37, the Owner's Association further has the responsibility of properly maintaining all drainage easement areas located within the individual lots which are subject to this Declaration of Restrictions and the ponds and all drainage easement areas within common areas. Maintenance of the ponds shall include, but not necessarily be limited to, preservation of the embankments; prevention of erosion above the ponds, around the ponds and downstream therefrom; and dredging if and when necessary. In the event the Owner's Association dessolves or fails to exist or the failure by the Owner's Association to fulfill its obligations relative to such repair and maintenance and the failure by said Owner's Association to do so threatens the health, safety, or welfare of the public at large or the City's ability to provide emergency services to the members of said Owner's Association, then after proper notice and an opportunity to cure after the receipt of such notice, the City shall have the right to enter onto the common areas or outlots and make the necessary repairs and shall have the right to then specially

assess or impose a special charge on the individual lot owners within the subdivision, acting on behalf of the Owner's Association with respect to the common elements of the subdivision, for the cost of the repairs so performed by the City. Said assessments or charges shall be levied in one lump sum an the proceeds thereof shall be paid by the lot owners within the subdivision to the City. Said assessments or charges shall commence to accrue interest 30 days after being levied against the individual lot owners at an interest rate of 1% per month. If any special charge is not paid within 30 days, the special charge shall be delinquent and will become a lien on the properties against which it is imposed and shall be include in the current next tax roll for collection and settlement.

38. DAY-TO-DAY MAINTENANCE OF DRAINAGE EASEMENT AREAS

The day-to-day maintenance of any drainage easement area located on an individual lot shall be the responsibility of the owners of such lot. Day to day maintenance includes such items as cutting grass, raking leaves, removing fallen trees and branches, and removing other minor obstructions. This paragraph shall not limit the City's authority of enforcement against the Association, as described in Section 36, above.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 29 day of June, 2023.

Tomich Investments X, LLC, Developer

By: _____
Carl P. Tomich, Member

ACKNOWLEDGMENT

STATE OF WISCONSIN)
)SS.
WAUKESHA COUNTY)

Personally came before me this 29th day of June, 2023, the above-named Carl P. Tomich, to me known to be the person who executed the foregoing instrument and acknowledged the same.

_____
Kari L. Stahl, Notary Public, Waukesha County, WI
My commission expires February 21, 2024

KARI L. STAHL NOTARY PUBLIC STATE OF WISCONSIN

Drafted by:
Tomich Investments X, LLC
Carl P. Tomich, Managing Member
N8 W22520 – L, Johnson Drive
Waukesha, WI 53186

EXHIBIT "A"

NORTHERN OAKS OF BROOKFIELD

LEGAL DESCRIPTION:

Being a redivision of Certified Survey Map No. 1051 and Unplatted Lands, being located in a part of the Northwest 1/4 and Southwest 1/4 of the Northwest 1/4 of Section 5, Town 7 North, Range 20 East, and the Southwest 1/4 of the Southwest 1/4 of Section 32, Town 8 North, Range 20 East, in the City of Brookfield, Waukesha County, Wisconsin, now being more particularly bounded and described as follows:

Commencing at the Northwest Corner of said Section 5, said point being the place of beginning of lands hereinafter described;

Thence North 89°03'04" East and along the North line of the said Northwest 1/4 Section, 295.40 feet to a point; Thence North 00°25'50" West and along the East line of Certified Survey Map No. 7392, 547.14 feet to a point on the Southwesterly Right-of-Way line of "Lisbon Road" (C.T.H "K"); Thence South 69°06'20" East and along the said Southwesterly Right-of-Way line, 98.47 feet to a point; Thence South 20°53'40" West and along the said Southwesterly Right-of-Way line, 15.00 feet to a point; Thence South 69°06'20" East and along the said Southwesterly Right-of-Way line, 479.96 feet to an angle point; Thence South 68°37'01" East and along the said Southwesterly Right-of-Way line, 429.56 feet to a point of curvature; Thence Southeasterly 81.79 feet along the said Southwesterly Right-of-Way line and the arc of a curve, whose center lies to the Northeast, whose radius is 2929.93 feet, whose central angle is 01°35'58", and whose chord bears South 69°25'00" East, 81.79 feet to a point; Thence South 00°13'37" East and along the West line of Outlot 2 of "Bradon Preserve" (A Subdivision Plat of record), 124.74 feet to a point on the said North line of the said Northwest 1/4 Section; Thence South 89°03'04" West and along the said North line of the said Northwest 1/4 Section, 9.48 feet to a point; Thence South 00°35'10" West and along the East line of the West 1/2 of the said Northwest 1/4 Section, 2504.31 feet to a point on the South line of the said Northwest 1/4 Section; Thence South 88°14'24" West and along the said South line of the said Northwest 1/4 Section, 1274.64 feet to a point marking the West 1/4 Corner of said Section 5; Thence North 00°07'54" East and along the West line of the said Northwest 1/4 Section, 1149.93 feet to a point; Thence South 89°52'06" East, 30.00 feet to a point on the East Right-of-Way line of "Lannon Road"; Thence North 00°07'54" East and along the said East Right-of-Way line, 651.97 feet to a point; Thence North 89°52'06" West, 30.00 feet to a point on the said West line of the said Northwest 1/4 Section; Thence North 00°07'54" East and along the said West line of the said Northwest 1/4 Section, 720.00 feet to the point of beginning of this description.

Said Parcel contains 3,539,338 Square Feet (or 81.2520 Acres) of land, more or less.

Electronically Recorded
4761733

WAUKESHA COUNTY, WI
REGISTER OF DEEDS
James R Behrend

Recorded On:04/10/2024 9:50:11 AM

Total Fee: $30.00 Page(s): 2
Transfer Tax: $0.00

The above recording informationverifies that this document has been electronically recorded and returned to the submitter.

Document Number

First Amendment to Declaration of Restrictions for Northern Oaks

Recording Area

Name and Return Address

Tomich Investments X, LLC
N8 W22520-L Johnson Dr.
Waukesha, WI 53186

Legal Description:

Lots One (1) through Forty-seven (47), all in Northern Oaks of Brookfield, being a redivision of Certified Survey Map No. 1051 and unplatted lands, being located in a part of the Northwest One-quarter (1/4) and Southwest One-quarter (1/4) of the Northwest One-quarter (1/4) of Section Five (5), Township Seven (7) North, Range Twenty (20) East, and the Southwest One-quarter (1/4) of the Southwest One-quarter (1/4) of Section Thirty-two (32), Township Eight (8) North, Range Twenty (20) East, in the City of Brookfield, Waukesha County, Wisconsin.

This cover sheet has been attached to the original document for the purpose of making the original document recordable under Wisconsin Statutes.

Except for the attachment of this cover page, the original document, as executed, remains unaltered.

Cover sheet prepared by **Land Title Services, Inc.**
Document prepared by: Carl Tomich

Return to: Tomich Investments X, LLC
N8 W22520-L Johnson Dr.
Waukesha, WI 53186

FIRST AMENDMENT TO
DECLARATION OF RESTRICTIONS
FOR
NORTHERN OAKS

This Amendment amends the Declaration of Restrictions for Northern Oaks Subdivision, recorded June 30, 2023, as Document No. 4726524.

1. The 4th sentence of Section 35, Paragraph B is hereby amended to read as follows: "adding or replacing landscaping, billing, etc.".

2. The 8th - 11th sentences of Section 35, Paragraph B are hereby amended to read as follows: "During the time in which Developer controls this Association, He/She has the discretion to use funds to enhance the subdivision with improvements, including additional landscaping as He/She sees fit".

3. The 3rd – 4th sentences of Section 35, Paragraph C are hereby amended to read as follows: "except for initial lots owned by the Developer, dues are paid on all lots once initially sold to a third party".

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 8th day of March, 2024.

Tomich Investments X, LLC, Developer

By: _____
Carl P. Tomich, Member

ACKNOWLEDGMENT

STATE OF WISCONSIN)
)SS.
WAUKESHA COUNTY)

Personally came before me this 8th day of March, 2024, the above-named Carl P. Tomich, to me known to be the person who executed the foregoing instrument and acknowledged the same.

KARI L. STAHL NOTARY PUBLIC STATE OF WISCONSIN

Kari L. Stahl

Kari L. Stahl, Notary Public, Waukesha County, WI
My commission expires February 21, 2024 2-21-2024

Drafted by:
Tomich Investments X, LLC
Carl P. Tomich, Managing Member
N8 W22520 – L, Johnson Drive
Waukesha, WI 53186