

AGREEMENT AMENDING DECLARATION OF CONDITIONS,
COVENANTS, RESTRICTIONS AND EASEMENTS FOR
OVERLAND HEIGHTS DEVELOPMENT, FOND DU LAC, WISCONSIN

THIS AGREEMENT is made this 30 day of March, 1982,
by and between the members of the Overland Heights Community Association,
Inc., a Wisconsin nonstock corporation (the "Members of the Association").

WITNESSETH:

WHEREAS, a Declaration of Conditions, Covenants, Restrictions and Easements for Overland Heights Development (the "Declaration") was made on July 26, 1979, and recorded on September 24, 1979, in the office of the Register of Deeds for Fond du Lac County in volume 802 of records as document number 353066 on pages 206-223; and

WHEREAS, paragraph 4 of Article VI of the Declaration provides that the Declaration may be amended at any time by the written consent of the Members of the Association who own, legally or beneficially, two-thirds of the Lots; and

WHEREAS, all of the Members of the Association desire to amend the Declaration.

NOW, THEREFORE, in consideration of the premises, the mutual covenants contained herein and other valuable consideration, the parties hereto agree as follows:

1. Paragraph 1 of Article II of the Declaration is hereby amended to read as follows:

1. Purposes. The purposes of this Declaration are to insure the best use and most appropriate development and improvement of each Lot and the Properties as a whole; to protect the Owners of Lots against such uses of surrounding Lots as will detract from the residential value of their Lots; to preserve to the extent practicable the natural beauty of the Properties; to prevent the erection of poorly designed or proportioned

structures; to assure harmonious uses of materials and colors; to encourage and secure the erection of attractive, substantial homes, appropriately located; to secure and maintain proper setbacks, side and rear yard restrictions; and to preserve and enhance the values and investments made by purchasers of Lots and Dwellings thereon.

2. Paragraph 5 of Article II of the Declaration is hereby amended to read as follows:

5. Dwelling Size. Living area for any Dwelling is defined as those areas, excluding garages, patios and breezeways, that are to be heated and/or air-conditioned. Basements, whether or not heated and/or air conditioned, shall also be excluded from the determination of living area; however, any habitable portion of a basement which has adequate natural light and ventilation and access at grade may be included at the discretion of the Committee. No areas with less than six feet (6'0") of headroom shall be included in calculating the living area. The minimum living area for any Dwelling is 1,800 square feet; however, the Committee may grant a variance for smaller Dwellings at its complete discretion. The maximum height of Dwellings and Dwelling Accessory Buildings shall be twenty-four feet (24'0") measured from the highest point of contact between the natural grade and the structure.

3. Paragraph 3 of Article III of the Declaration is hereby amended to read as follows:

3. Powers and Functions of the Committee. The Architectural Review Committee's consent, approval or disapproval as provided herein shall be in writing. Decisions made and actions taken by the Committee shall be by majority vote of the members thereof.

In order to maintain harmony in appearance and for the protection of the Owners of the Lots in the development, no Dwelling, Dwelling Accessory Building or Structure; no building of any type, no fence, mailbox, patio, exterior lighting fixture, sign, or wall (including hedges and mass planting), no landscaping, no swimming pool, tennis courts or other recreational facilities, nor any other structure, main or accessory, shall be erected, placed, constructed or maintained upon any Lot nor shall any change or alteration be made thereon, nor shall any construction be commenced on any Lot unless complete, detailed plans and specifications therefor, and a detailed site plan, have been submitted to and approved in writing by the Architectural Review Committee at least thirty (30) days prior to the commencement of construction. Dwelling plans shall be at a scale of 1/4" = 1'-0" and include floor plans as well as elevation drawings of all exterior sides. Elevation shall

indicate the relationship of the Dwelling to existing and proposed grades. A complete description of all exterior surfaces, specifying material, texture, and colors, shall be indicated on the drawings. Samples of exterior materials and colors shall be submitted if so requested by the Architectural Review Committee. A recap of the total number of square feet of living area floor space shall be shown and any other structures outside the Dwelling (including fences, screens and walls), shall be depicted on the drawings and described in detail. The required detailed site plan shall be on a scale of 1" = 20'-0" and shall be fully dimensioned showing the position of all proposed structures, location of structures on adjacent lots, location of easements, the proposed location of driveway and parking areas, existing major trees, proposed landscaping, septic field and finished floor elevation of the Dwelling.

Plans or material samples shall be delivered or mailed to the Committee. A check payable to "Architectural Review Committee" for the review fee shall be submitted with the plans. The review fee for the year 1979 shall be \$100.00. Such fee may thereafter be increased by the Board of Directors. The Committee shall have a period of 30 days in which to review and take action on plans. Such period will commence when the Committee has received plans and the review fee. In the event an Owner's plans have been considered and approved, a written confirmation of approval, two complete sets of plans with stamped approvals, and a building permit card shall be returned to the Owner. Said permit card shall be affixed to the building structure or placed conspicuously on the Lot during the entire construction period and otherwise displayed in the same manner as the building permit from the local authorities.

The Committee shall refuse to approve any such plan if one or more of the following conditions are present:

(a) The plans or specifications are themselves inadequate or incomplete;

(b) The plans or specifications on their face show violations of specific covenants or restrictions contained in this Declaration, as it may be amended from time to time, or any Supplementary Declaration of Covenants and Restrictions (e.g., violations of land use, lot size, number of buildings, setbacks, rear and side yard restrictions);

(c) The living area of a Dwelling is less than 1,800 square feet, unless the Committee has granted a variance therefor;

(d) The design of a Dwelling, Dwelling Accessory Building or other Structure is not in harmony with the general surroundings or with adjacent buildings;

(e) The materials of a Dwelling, Dwelling Accessory Building or other Structure are not acceptable;

(f) The color of the exterior of a Dwelling, Dwelling Accessory Building or other Structure is not acceptable;

(g) The external appearance of a Dwelling Accessory Building or other Structure does not conform to that of the Dwelling situated on the same Lot;

(h) The proposed division of a Lot or the proposed type, size, shape or location of the Dwelling, Dwelling Accessory Building, other Structure or other improvement requires excessive destruction of trees or modification of the topography of the Lot, including interference with the natural pattern of surface drainage;

(i) The proposed division, building or improvement is, in the reasoned opinion of the Committee, contrary to the interests of the development as a whole or any part thereof.

In the event the Committee rejects in whole or in part the Owner's initial submission, the Owner shall have the right to submit two additional submissions for review. Each additional submission shall conform with the requirements for the initial submission set forth above. A review fee shall be submitted with the initial submission and with each additional submission. In the event the third and final submission is not approved in whole or part by the Committee, the controversy arising out of the third submission shall be submitted to binding arbitration pursuant to the arbitration provisions of Chapter 298 of the Wisconsin Statutes. The arbitration shall be conducted by a panel of three architects registered in the State of Wisconsin; one shall be selected by the Owner, one shall be selected by the Committee, and the two so selected shall select the third.

A designee of the Architectural Review Committee shall inspect construction at various stages to determine that it is in accordance with approved plans. Any variance from approved plans which may affect approvals shall be reported to the Owner for correction. If during construction exterior adjustments or alterations are needed, such adjustments or alterations must be submitted to the Architectural Review Committee for approval. All construction approved and undertaken must be completed within 14 months from the commencement of construction.

