

# DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR WYNDMOOR

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Owner of Record: Milldale Ltd.

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**DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
WYNDMOOR**

This declaration of covenants, conditions and restrictions for Wyndmoor subdivision is made this 26th day of April, 2000, by Milldale Ltd., hereinafter referred to as "Declarant".

Know that Declarant being the Owner and Developer of the land described in Exhibit A of this declaration and being desirous of subjecting said property to the restrictions, covenants and charges hereinafter set forth, each of which shall accrue to the benefit of and pass with said property, and each and every parcel thereof, and shall apply to and bind the undersigned, and their successors and assigns, hereby declare that the property described in Exhibit A hereof is held and shall be transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations and charges hereinafter set forth.

The real property which is and shall be held and which shall be transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations and charges with respect to the various portions thereof set forth in the several sections and subdivisions of this declaration is more particularly described as Exhibit A in the Appendix.

(Please refer to Exhibit A for legal description).

## Section I

### ARCHITECTURAL REVIEW BOARD AND PROCEDURES

The Declarant hereby creates an Architectural Review Board (hereafter referred to as ARB) consisting of at least three (3) members. A current listing of the ARB members is on file at the Rochester Village Hall. Written communications and other materials may be directed to the ARB at P.O. Box 604, Rochester, Illinois 62563. A majority of the ARB may designate a representative to act for them. In the event of the death or resignation of any ARB member, the remaining member or members shall, subject to the approval of the Declarant, designate successors. Neither the members of the ARB nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

At such time as the Declarant concludes its development and sale of all homesites at Wyndmoor, the Declarant shall be removed from the process of approving successor ARB members. Subsequently, any vacancy on the ARB caused by the death or resignation of a member, shall be filled through the designation by the remaining member(s) of a successor member who is a then current resident of the subdivision. A successor member designated in this manner may continue to serve on the ARB until he/she dies, resigns or ceases to be a resident of the subdivision.

The ARB at its election may incorporate and adopt a corporate name of its choosing.

The ARB shall have the right to prevent the clearing of a homesite and subsequent excavation and grading prior to construction of improvements upon such a homesite according to the following:

Prior to any construction, a homesite owner is required to seek approval of building plans through the ARB. The ARB shall review materials, external design, location with respect to topography and finished grades, rights-of-way, easements, declared public lands, elevations and

building lines, location of driveways and walkways. To comply with this requirement, each homesite owner, prior to any construction on the homesite, shall submit two (2) sets of the building plan and specifications of the improvement to be constructed to the ARB stating the type, style, size and general design of the residence to be constructed, along with its location on the building site. Such plans and specifications shall include the floor plan, elevations and site plan showing distances from easements and lot lines. The ARB will respond in writing to each homesite owner regarding the proposed building plan within fourteen (14) days after complete submittal of all required information, indicating its approval or specifically detailing any issues that precluded its approval. The homesite owner agrees not to obtain a Village of Rochester Building Permit until the ARB has approved the final plans.

## **Section II**

### COVENANTS

To insure the best use and most appropriate development and improvement of each homesite; to protect the owners of each homesite against improper use of surrounding land that might depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereon of poorly designed or proportioned structures and structures built of improper or unsuitable materials; to obtain harmonious appearances; to encourage and secure the erection of attractive homes with appropriate locations hereof on each homesite; to secure and maintain proper setbacks from streets and adequate free spaces between structures, and in general, to provide adequately for a quality type of improvement on said property and thereby enhance the values of investments made by purchasers of the homesites therein, the real estate described in Exhibit A is hereby subject to the following conditions, restrictions, covenants, reservations and charges, to wit:

1. Permissible Residences: No homesite, other than those with the R2 zoning designation, shall be used for other than single-family residence purposes. There shall not exist on any homesite at any time more than one residential structure. Log homes will not be permitted.
  
2. Required Living Space By Zoning District: Exclusive of basement, open porches and garages:
  - A. No residence on a homesite with an RS zoning designation shall contain a ground floor area of less than 2000 square feet for a one (1) story dwelling, nor a ground floor area of less than 1200 square feet and a minimum total of 2400 square feet for a dwelling of more than one (1) story. Each such dwelling must have a garage providing space for at least two (2) vehicles and must be attached to the dwelling unless otherwise approved by the ARB.
  - B. No residence on a homesite with an R1 zoning designation shall contain a ground floor area of less than 1700 square feet for a one (1) story dwelling, nor a ground floor area of less than 1000 square feet and a minimum total of 2000 square feet for a dwelling of more than one (1) story. Each such dwelling must have a garage providing space for at least two (2) vehicles and must be attached to the dwelling unless otherwise approved by the ARB.
  - C. No two-family residence on a homesite with an R2 zoning designation shall contain a ground floor area of less than 1400 square feet per unit for a one (1) story dwelling, nor a ground floor area of less than 800 square feet and a minimum total of 1600 square feet per unit for a dwelling of more than one (1) story. Each unit of a two-family residence must have a garage providing

space for at least two (2) vehicles. Each garage must be attached to the dwelling unless otherwise approved by the ARB.

The ARB shall have the authority to change minimum square footage requirements as needed on homesites with restricted building areas. All homes must incorporate no less than 40% brick or stone fascia into the front elevation(s). Brick or stone used as foundation material or below first floor elevation will not be considered when determining fascia requirements. Brick or stone styles must be approved by the ARB.

In the event that the Village of Rochester shall alter the names of its zoning designation, this instrument shall be deemed to be modified to read with such new zoning designation names in place of the original zoning designation names referenced herein without further alteration of this instrument.

3. Setbacks, Orientation and Driveways: No residential unit, including attached porches, breezeways and garages but excluding eaves and steps, shall be erected on any homesite nearer to the lot lines of said homesite than as follows: RS homesites will have a minimum of a thirty (30) foot front setback line. R1 and R2 homesites will have a minimum of a twenty-five (25) foot front setback line. All homesites will have a side yard setback of ten (10) feet to either side of the lot line, and a rear yard setback of twenty (20) feet (provided, however, that in the case of corner homesites the setback from the side street line shall not be less than the minimum front setback line as indicated above). Each residential dwelling shall face a subdivision street. Driveways shall have a minimum width of eighteen (18) feet to serve at least a two (2) car garage, except for driveways leading to the rear or side entrance garages, which shall have a minimum width of ten (10) feet. All driveways shall be paved with concrete, asphalt or brick its entire length (same surface for entire length).
4. Elevation of the Ground Floor: The vertical elevation of the ground floor of any

residence (as measured from the top of the valley gutter or curb) must be approved by the ARB prior to construction.

5. Field Tile Damage: In accordance with Section 11-5-5 of the Village of Rochester's Subdivision Ordinance, the homesite owner or designated agent must promptly contact the Village of Rochester if field tile are broken or damaged during the construction of any residence. Further, it is the responsibility of the homesite owner to repair the tile so as not to impair its proper functioning. The excavation area containing the tile shall not be back-filled until the Village of Rochester has inspected the repair and determined it to be satisfactory.
6. R2 Corner Homesite Requirements: All two-family residences on corner homesites in the R2 zoning designation shall have individual entrances and driveways which front on the respective intersecting streets (i.e., only one driveway for each of the corner homesites shall exit onto Milldale Drive).
7. Ponds: Changes to the pond configuration or overflow control structures are prohibited unless authorized by the Village of Rochester and the ARB. Maintenance of the portion of the pond and shoreline owned by an individual homesite owner is the responsibility of that homesite owner. Maintenance easements for the overflow control structures have been granted to the Village of Rochester.
8. Underground Utilities: All utilities, including telephone, electric and television cables, other than for temporary service during construction, shall be underground

9. Sewers and Sump Pumps: Each home shall be connected to the public sanitary sewers. No sump pump in any home shall be connected to or discharge into the public sanitary sewer system. The discharge line from a sump pump shall be connected to the sump pump collector line or the storm sewer main. The collector line will be placed in an easement abutting the right-of-way as design requires. Therefore, the homeowners will need to make provisions to ensure the location of the home's discharge line for any sump pump is practical with respect to the location of the collector line or storm sewer. The expense of the sump pump system will be the responsibility of the homeowner. It is the homeowner's responsibility to contact the Village of Rochester for direction with respect to preparations for the sump pump discharge outlet.
10. Construction of Non-residence Structures and Improvements: No building, including detached structures temporary or permanent, shall be erected, driveway constructed, swimming pool installed, television antenna or tower installed, or transformers and distribution pedestals for main lines and house leader installed, or any of the same altered or relocated until the site drawings, construction plans, front elevation and specifications showing the location of such improvements or structure on the homesite have been approved by the ARB. No outbuildings or unattached garages shall be approved by the ARB unless they are compatible with the existing single family dwelling on the premises and are of comparable quality, materials and construction. This covenant precludes the use of metal storage buildings or sheds on any homesite. Ultimate grade lines shall be in conformity with the adjacent homesites and shall not interfere with the drainage from adjoining homesites. No satellite dishes greater than twenty-four (24) inches in diameter or solar panels may be installed.
11. Construction Schedule and Management Requirements: After initial ground breaking, all

construction must be diligently pursued to completion within a reasonable period but in no case to exceed one (1) year. No building shall be occupied for living purposes which is not functionally complete in detail as to the exterior, nor shall any building materials, paint or building equipment be exposed to the public view if occupied as a dwelling. No structure of a temporary nature (trailer, basement, tent, shack, garage, barn or other outbuildings) shall be used on any building site at any time as a residence either temporarily or permanently.

12. Vehicle Parking: Except when stored in his/her garage, no homesite owner or occupant shall permit any commercial vehicle, (including builder's/subcontractor's trailers and equipment), cargo trailers, campers, boat trailers, house trailers, mobile homes or carryalls to be parked or stored on the homesite, in the driveway, or in the street in front of or along side of the homesite for more than forty-eight (48) hours. Any commercial vehicle larger than a passenger automobile that is owned or operated by a homeowner, must be stored in his/her garage. Additionally, the ARB encourages homesite owners to park non-commercial vehicles either in their garages or driveways whenever possible.
13. Commercial Use Prohibited: No machinery, appliance or structure of any kind shall be permitted upon, maintained or operated in or on the premises of any homesite for the facilitation and carrying on of any trade, business or industry.
14. Mowing Requirements: The owner of any vacant homesite shall cut the grass and/or weeds as needed to maintain a height of not more than twelve (12) inches and in proper condition as to not adversely affect neighboring homesites.
15. Easements: Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or easements. The easement area of each homesite and all

improvements in it shall be maintained continuously by the owner of the homesite, except for those improvements for which a public authority or utility by virtue of the plat of said subdivision has assumed that responsibility. A utility easement is hereby reserved as needed on each homesite for underground telephone, cable television and power lines.

Homesite owners may plant trees, shrubs or landscaping within the easements; provided in the event of destruction or removal of any such trees, shrubs or landscaping by the Village of Rochester, any utility provider or its agents or assigns in connection with the repair and maintenance of any utility contained within the easement area, the homesite owner shall be solely and exclusively responsible to replace any such trees, shrubs or landscaping damaged or removed by reason thereof without cost or expense to the Village of Rochester or such utility provider. Drainage in easement areas shall not be blocked or impaired, and any owner of any homesite or part thereof in said subdivision shall have the privilege of removing any obstruction blocking or impeding such drainage.

No adverse modifications to the topography with respect to drainage will be permitted. Homesite drainage shall be approved by the ARB.

The ARB reserves the authority to direct homeowner to alter ultimate or final grade lines should the ARB or the Village of Rochester determine that grade lines on a particular lot or homesite are not in conformity with adjacent homesites or interfere with drainage from adjoining homesites.

16. General Nuisance: No noxious or offensive activity shall be carried on upon any homesite, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.
17. Signs: No sign of any kind shall be displayed to the public view on any building site except one (1) miscellaneous sign of not more than one (1) square foot, one (1) sign of not more than five (5) 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, unless approved by the Village of Rochester and the ARB.

18. Liquor: No spirituous, vinous or malt liquors shall be sold or kept for sale on said premises.
19. Animals: No animals, livestock or poultry of any kind shall be raised, bred or kept on any homesite, except that dogs, cats or other household pets may be kept provided that they are not bred, kept or maintained for any commercial purposes. No dogs shall be kept on any homesite until such homesite is improved with a habitable dwelling.
20. Trash and Garbage Removal: No homesite shall be used or maintained as a dumping ground and all trash, garbage or other waste shall be kept in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition and out of public view except within twenty-four (24) hours of trash pickup. Each homeowner is required to contract with a waste hauler to remove household garbage/trash at least once every seven (7) days.
21. Oil and Mining Operations Prohibited: No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any homesite, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any homesite. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any homesite.
22. Mailboxes: All mailboxes located within Wyndmoor shall be of a uniform design, construction and installation as approved and required by the ARB. No separate mailbox or other receptacle for newspapers or other periodicals shall be placed upon said mailbox or post without the prior permission of the ARB.
23. Lawn Requirement: Immediately after the final grade has been established on the building site, the owner shall install vegetation to cover exposed soils by planting ground

cover, sodding, seeding and strawing, or covering the exposed areas with landscape material to prevent erosion. All front and side yards must be sodded. Back yards may be seeded. Due to the irregular shape or size of a homesite, exceptions to this requirement may be made by the ARB prior to its approval of the building plan.

24. Erosion Prevention: During clearing of a homesite and construction of improvements thereon, the owner shall prevent the erosion and washing of soil from the homesite. Soils, mud, waste material, construction debris and landscape waste carried from any homesite onto other homesites, easements, rights of way and roadways, by erosive forces or in any manner during construction, shall be cleaned up daily or as necessary at the expense of the homesite owner. When excavating or improving the building site, the owner shall place or require a general or sub-contractor to place all excavated soil within the building site at least five (5) feet from any homesite line and clear of any easements. All dumpsters and construction materials must be kept on the building site (not in the street). The intent of this covenant is to maintain and preserve a clean and neat appearance in the subdivision at all times.
25. Sidewalks: After the construction of the sidewalk in front of a homesite, but prior to dedication to the Village, the homesite owner shall be responsible for replacing at his own expense any broken or cracked sections of said sidewalk adjacent to such homesite. All replacement of sidewalks must meet subdivision specifications as to materials, type, depth, etc. Except as a result of damage caused by homesite owner's construction, once the sidewalk is dedicated to the Village, per the Village's subdivision ordinance, the homeowner is not responsible for the expense to repair the sidewalk in the front of the homesite. In the event of damage by homesite owner's construction, the homesite owner shall be responsible for replacing and repairing at his own expense any broken or cracked sections of said sidewalk.

26. Fences: Prior to commencement of construction, all fences shall be approved by the ARB. Fences shall also comply with Village of Rochester zoning ordinance 10-3-9. Board on board wooden fences and open wrought iron fences are the preferred styles. No woven-wire fencing shall be permitted.
27. Swimming Pools: In-ground swimming pools are allowed and must be properly fenced to prevent unintended access. Above-ground swimming pools shall be permitted with restrictions on an individual basis as designated by the ARB.
28. ARB Approval of Separate Ownership Agreements: Any agreement or other document establishing common wall or common element ownership relative to creation of a separate ownership interest in any part of a R2 zoning designated lot including but not limited to party wall agreements, condominium declaration, easement, license arrangement or other instrument used for such purpose shall be subject to the approval of the ARB as to form and content.
29. Waiver: To the fullest extent permitted by law, each homeowner purchasing a lot subject to this instrument and the agents, employees, contractors, subcontractors or other parties claiming by, through or thereunder hereby waives any and all causes of action against the members of the ARB in their individual or personal capacity relative to any decision, action or omission made by a member of the ARB. Each homeowner and their agents, employees, contractors, subtrades or other parties claiming by, through or thereunder waive all causes of action against the ARB in its capacity as an entity or corporation except to the extent said cause of action is limited to the nature of declaratory action to overturn a ruling or directive of the ARB based on gross negligence or material deviation from the provisions of the document. Each homeowner, for themselves, their agents, employees, contractors, subcontractors or other parties claiming by, through or thereunder, waives any right to monetary damages or financial compensation of any form

relative to the ARB and/or any member thereof relative to any act or omission or the ARB.

### **Section III**

#### **TERMS OF COVENANTS**

These covenants shall be binding upon all parties and all persons claiming through or under them for a period of twenty (20) years from the date these covenants are filed for record, after which time such covenants shall automatically be extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of record of said subdivision has been filed for record agreeing to change such covenants in whole or in part. If such an instrument is circulated, owners of record shall have one vote per dwelling unit.

Invalidation of these covenants by judgment or court order shall in no way affect the other provisions, which shall remain in full force and effect.

### **Section IV**

#### **ENFORCEMENT**

Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages. The failure of the Architectural Review Board, any homesite owner or the present owner of said subdivision to enforce any of the restrictions, conditions, covenants, reservations, liens, or charges to which said property, or any part thereof, is subject, shall in no event be deemed as a waiver of the right to do so thereafter or to enforce any other restriction, condition, covenant, reservation, lien or charge.

### **Section V**

EXECUTION

This document duly executed by the corporate officers of Milldale Ltd. this 26<sup>th</sup> day of April, 2000.

BY \_\_\_\_\_

Scott A. Miller, Secretary/Treasurer

BY \_\_\_\_\_

Bryan T. Martindale, President

## **Exhibit A**

(Legal description to be furnished prior to final platting.)