

CERTIFICATE OF OWNERSHIP AND DECLARATION OF CONDITIONS,  
COVENANTS, RESTRICTIONS, AGREEMENTS AND CHARGES  
AFFECTING REAL PROPERTY KNOWN AS BRIAR CLIFF  
SECOND SUBDIVISION, CHAMPAIGN COUNTY, ILLINOIS

This Certificate and Declaration made this 15<sup>th</sup> day of March, 1969, by the undersigned, Planned Communities, Inc., an Illinois corporation, having its principal office in Urbana, County of Champaign, State of Illinois, said corporation being the owner of the following described and bounded real estate:

Beginning at the Northwest Corner of the South Half of the Southwest Quarter of the Northwest Quarter of Section 11, Township 20 North, Range 7 East of the Third Principal Meridian; thence S 89 degrees 46 minutes E, 39.73 feet on the North Line of said Lot D; thence S 0 degrees 14 minutes W, 20.00 feet to the North Line of said Lot B; thence on the boundary of said Lot B, S 89 degrees 46 minutes E, 688.78 feet; thence S 6 degrees 46 minutes W, 110.85 feet; thence S 78 degrees 36 minutes W, 426.28 feet to the Point of Curve of a curve to the right having a radius of 23.64 feet; thence along said curve 38.46 feet to the Point of Tangent of said curve; thence N 9 degrees 11 minutes W, 60.11 feet; thence N 89 degrees 55 minutes W, 721.61 feet; thence N 0 degrees 6 minutes E, 1.00 foot to the Point of Curve of a curve to the left having a radius of 170.00 feet; thence along said curve 104.39 feet to the Point of Tangent of said curve; thence S 54 degrees 56 minutes W, 25.00 feet; thence N 20 degrees 38 minutes W, 173.68 feet, to the North Line of Lot B; thence S 89 degrees 53 minutes E, 621.50 feet, on the North Line of Lot B; thence N 0 degrees 14 minutes E, 20.00 feet to the North Line of said Lot D, thence S 89 degrees 53 minutes E, 20.27 feet on the North Line of said Lot D to the place of beginning, containing 4.06 acres, more or less, being part of Lots B and D of Briar Cliff First Subdivision, all being situated in Champaign County, Illinois,

which is included in the attached plat, the undersigned having caused the same to be surveyed by Chandler S. Parsons, registered Illinois land surveyor No. 1621, and having subdivided the said real estate into lots and drives as indicated on the attached plat bearing the certificate of the said Chandler S. Parsons under the date of September 17, 1964; said subdivision is to be known as Briar Cliff Second Subdivision, Champaign County, Illinois, and the real estate contained therein shall be held, transferred, sold, and conveyed subject to the conditions, covenants, restrictions, agreements, and charges hereinafter set forth in the various articles of this declaration and shall apply to and bind the successors in interest and the owner and owners thereof, to-wit:

ARTICLE I.  
MUTUAL AND RECIPROCAL COVENANTS AND AGREEMENTS

All of said conditions, restrictions, covenants, agreements, and charges shall be made for the direct and mutual reciprocal protection and benefit of each and every lot shown on said map, as recorded, and each and every lot and "the commons" as shown on plat recorded in Plat Book "O" at page 37 in the Recorder's office of Champaign County, Illinois, and shall be intended to create mutual and equitable servitudes upon each of said lots and "the commons" in favor of each other lot and "the commons" and to create reciprocal rights and obligations between the respective owners of all of the lots and "the commons" and to create a privity of contract and estate between the purchasers of said lots, their heirs, successors in interest and assigns, and shall, as

to the owners of each lot shown on said map, his heirs, successors in interest and assigns, operate as covenants running with the land for the protection and benefit of all the other lots in and each and every part of Briar Cliff First and Second Subdivision.

## ARTICLE II. DEFINITION OF TERMS

Whenever used in this Declaration, the following terms shall have the following meanings:

- (a) The term "lot" means and refers to the numbered subdivision of land delineated and specified on said map and lots shown on plat recorded in Plat Book "O" at page 37 in the Recorder's office of Champaign County, Illinois.
- (b) The term "commons" is the area within the plat recorded in Plat Book "O" at page 37 in the Recorder's office of Champaign County, Illinois except the "lots" and streets, and includes the area marked "access to commons".
- (c) The term "dwelling" means and refers to the main portion of such structure and all projections therefrom, such as bow or oriel windows, exterior chimneys, covered porches or porticoes and the like, including garages incorporated in and forming a part of the dwelling house, but shall not include eaves of such structures nor any open pergola nor any uncovered porch, stoop or steps, the sides of which do not extend laterally more than three feet above the level of the first floor of said structure.
- (d) The term "owner" means and refers not only to the person or those persons acquiring title to any lot in fee simple, but also all persons entitled to purchase a lot or lots on said property under outstanding contracts of sale and persons having a possessory interest in any lot or lots as tenants or otherwise, and the heirs, successors in interest and assigns of each of them.
- (e) The term "setback" means and refers to the horizontal distance between the furthestmost applicable projection of any dwelling house or other structure referred to and a given line, street, lot or plot.

## ARTICLE III. BRIAR CLIFF ASSOCIATION

The undersigned has caused a not-for-profit Illinois corporation to be formed by the name of Briar Cliff Association and have named and designated an architectural committee composed of three persons in connection therewith and herewith. The undersigned has deeded to that corporation the land designated as "commons", including access to "commons", which conveyance is subject to the provisions of the certificate and declaration recorded in Plat Book "O" at page 37 in the Recorder's office of Champaign County, Illinois, and all rights set forth in Article III of said certificate and declaration pertaining to the owners of Lots B and D of Briar Cliff First Subdivision shall accrue to the owners of any lot in Briar Cliff Second Subdivision.

The architectural committee designated by the Board of Directors of Briar Cliff Association shall hold their office and receive compensation, if any, as provided by said Association. The owner or owners of the legal title of record of a lot in this subdivision will automatically be a member of Briar Cliff Association. The owner or owners of each lot shall be entitled to one vote at member meetings. The owner or owners of more than one lot shall be entitled to additional vote or fraction thereof in accordance with the additional lots owned or fractions thereof. The members of said Association shall meet in accordance with the by-laws of that Association and shall elect the Board of Directors of that Association. The rights, privileges, powers and duties of the architectural committee shall include, but not be limited to, the enforcement of the provisions herein contained.

ARTICLE IV.  
COMMITTEE APPROVAL

No structures, either residence or accessory buildings, tennis court, swimming pool or other improvements, shall be constructed or maintained upon any lot, nor shall any alteration in the exterior of a structure be made unless complete plans and specifications therefor showing the exterior design, nature, kind, shape, height, building material and color scheme thereof, the general plan of landscaping, with special reference to location of proposed tree and hedge planting and kind of trees and hedges, the grading plan, the location on the lot and type of any mail box, television antenna or aerial, the location and height of any wall or windbreak, and the floor plan of any proposed structure plotted on the lot, shall have been submitted to and approved in writing by a majority of the architectural committee. A copy of the completed plans and specifications shall be filed with the chairman of the architectural committee with a request for approval. The committee's decision or approval or disapproval shall be reasonable and the committee's action shall be taken, and a copy delivered personally or mailed to the applicant at his last known address with thirty (30) days from the receipt of such plans and specifications by the committee. A copy of such plans as filed and as approved shall be deposited with and remain with the committee. A copy of such plans and specifications and other data as finally approved shall be deposited with the committee. The pitch, surface and color scheme of the roof of any proposed structure, as a condition to the approval of the plans by the committee, shall be of a design and material acceptable to the committee. No change in the exterior color scheme of any dwelling house or accessory building shall be made subsequent to final approval by the committee of the plans, specifications and proposal as originally submitted to the committee as approved heretofore, without written approval of a majority of the committee. In the event the committee fails to approve or disapprove any plans or specifications submitted to it within thirty (30) days after such plans or specifications have been submitted to the committee, or in the event legal proceedings are not instituted to enforce compliance herewith prior to completion of such construction or alteration, such construction or alteration shall be deemed to comply with the provisions of this Declaration. The architectural committee shall, upon request, issue its certificate of completion or compliance or approval following the action taken by the committee of such approval.

During reasonable hours any member of the architectural committee or any agent of such committee shall have the right to go upon and inspect any lot and the improvements thereon for the purpose of ascertaining whether or not the provisions herein set forth have been and are being complied with, and shall not be deemed guilty of trespassing by reason thereof, provided, however, that reasonable and proper notice in writing to go on the premises shall be given by the committee to the owner.

The approval by the architectural committee of any plans and specifications, plot plan, grading, planting or any other plan or matter requiring approval as herein provided shall not be deemed to be a waiver by the said committee of its right to withhold approval as to a similar or other feature or element embodied therein when subsequently submitted for approval in connection with the same lot or lots.

Neither the said committee nor any member thereof, nor the Briar Cliff Association, nor the present owner of the real estate, shall be in any way responsible or liable for any loss or damage for any error or defect which may or may not be shown on any plans or specifications or any plot or grading plan or any planting or other plan or in any building or structure or work done in accordance with any other matter, whether or not the same has been approved by the said committee and/or any member thereof and/or the Association and/or the present owner of said real estate.

ARTICLE V.  
LOT USES

1. No lot shall be used except for residential purposes with the exception of Lot 44 which may be used and maintained as an area to provide utility services for this or any other subdivision including but not limited by specific reference thereto to construction, maintenance, and operation of water works facilities and water transmission lines thereon. No building intended for human habitation shall be inhabited, erected, altered, placed or permitted to remain on any lot in this subdivision other than one residential dwelling. No dwelling shall be occupied by more than one family.

2. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, nor shall any condition or activity be permitted which will endanger the health or disturb the quiet of any other residences or lot owners.

3. No oil drilling, quarrying, mining operations of any kind and no derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any lot.

4. Each lot owner shall keep weeds cut after erection of a dwelling and shall establish and maintain reasonable landscaping.

5. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporary or permanent. No building shall be occupied for living purposes which is not functionally complete throughout and which is not complete in detail as to the exterior nor shall any building materials, paint containers or building equipment be exposed to public view after occupancy as a dwelling.

6. No advertising or signs of any kind shall be placed or suffered to remain upon any of said lots except that one professional sign of not more than one square foot may be erected and one sign of not more than five square feet may be erected by a builder, architect, real estate broker or an owner to advertise the property during the construction and sale period and thereafter by owners of "for sale" or "for rent" signs.

7. No lot owner or occupant shall permit any truck or commercial vehicle to be parked or stored on the lot, in the driveway or on the drives of this and/or "later subdivisions". This shall not prevent the lot owner or occupant from storing a truck or commercial vehicle owned by such owner or occupant and used by him in his business in the garage on the premises.

8. No livestock, poultry, fowl or game of any kind shall be raised, bred or kept on any lot, except that the occupant of the residence upon the lot may keep and maintain on his said lot not to exceed two house pets, provided, however, that the Board of Directors of Briar Cliff Association may, in writing, grant to any occupant of a residence authority to keep more than two said household pets upon any lot, but which authority may be revoked at any time after given by said Board of Directors.

9. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept except in sanitary containers or incinerators, all equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition in the rear of the lot and out of sight from the street. All dwellings shall be equipped with garbage grinders for the disposal of putrefiable solids through the sanitary sewage system. Indoor type incinerators or underground storage of garbage shall be provided.

10. No machinery, appliance or structure of any kind shall be permitted upon, maintained or operated in or on the premises of any lot for the facilitation or carrying on of any trade, business or manufacturing. This clause shall not restrict the property owner from carrying on a professional practice such as a doctor, attorney, architect, professional engineering consultant, etc., from his home in a study, office or studio, but such practice shall not employ anyone except the resident on that lot.

11. All construction must be diligently pursued to a completion within a reasonable time.

12. Nothing contained in this Declaration shall be construed to prevent the erection or maintenance by the undersigned or its duly authorized agents of structures or signs for the conduct of its business in connection with and the sale of lots in this subdivision.

13. On the annexed plat there are shown certain easements which are reserved for the purposes indicated. No permanent structure except a fence, windbreak or wall shall be placed upon any easements.

#### ARTICLE VI USE OF COMMONS

The use of the land designated in the plat recorded in Plat Book "O" at page 37 in the Recorder's office of Champaign County, Illinois, as "commons" other than as herein provided, shall be for the use of the owners of lots in this subdivision, the occupants of dwellings within the subdivision and their invited guests. The Board of Directors of Briar Cliff Association shall have the right, privilege, power and duty to designate any areas within the "commons" for the location and construction of recreational facilities such as (but not to be all inclusive) swimming pool, stable, tennis court, bridle path and outdoor furnaces. The said Association, within its rights and abilities, may construct such facilities and establish the rules and regulations for its use, including the collection of a charge for the use from the persons so using them.

No lot owner or occupant of a dwelling thereon, nor any of their invited guests, shall use or enjoy the "commons" or any improvements thereon in any manner or way that would create a disturbance or nuisance to other lot owners, occupants of dwellings on lots and their invited guests and such use shall at all times be within the rules prescribed by the Board of Directors of said Association, which rules shall be reasonable.

#### ARTICLE VII. SET BACKS

No main wall of any dwelling, garage or out-building shall be erected or maintained on any lot within the front set back line, nor nearer than ten feet from either of its interior side property lines nor nearer than twenty feet from the rear property line. For the purposes of this covenant, eaves, steps, open porches and other items which do not present an obstacle of view or access shall not be considered a part of a building provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. The architectural committee may waive any of the above requirements in regard to set back lines.

#### ARTICLE VIII. SEPTIC TANKS

No individual sewage disposal system shall be permitted on any lot unless such system is designed, located and constructed in accordance with the requirements,

standards and recommendations of the Sanitary Water Board of the State of Illinois. Approval of any system contemplated to be installed shall be obtained from such authority prior to installation. When public sanitary system is available, all private systems shall be abandoned forthwith and hook-up made to the public sanitary system.

#### ARTICLE IX WATER SUPPLY

No individual water supply system shall be permitted on any lot unless such system is located, constructed and equipped in accordance with the requirements, standards and recommendations of the Sanitary Water Board of the State of Illinois. Approval of any system contemplated shall be obtained from such authority prior to such installation. When public water system is available, all private systems shall be abandoned forthwith and hookup made to public water system.

#### ARTICLE X CARE AND APPEARANCE

The owner of each lot in this subdivision shall maintain the same in a neat and attractive manner. If an owner shall fail to do so, the said Association may give him a notice in writing of such failure to cut the grass, weeds and vegetation, have dead trees, shrubs and plants removed, or to remove and abate the other objection so determined by the Board, and if such is not corrected within thirty days of such notice, said Association may cause the same to be corrected, notifying the said owner of the cost thereof, and such owner shall forthwith reimburse the said Association. The owner, at his own expense, shall maintain in first class condition at all times the side walk, planting strip and trees, if any, between his lot line and the paved portion of the public drive.

#### ARTICLE XI PROVISIONS FOR UPKEEP

Each lot shall, from the date of the sale thereof by the undersigned, be subject to an annual charge or assessment of \$25.00 for purposes of upkeep and maintenance without regard to the square foot area thereof, to be paid annually in advance to the Association on the first day of January of each year, provided, however, that the first annual assessment on any lot shall become due and payable thirty days following the sale by declarant of the lot and if such due date falls in any month other than January, a credit of an amount to be determined on a monthly prorata basis shall be given the owner of the said lot at the time he pays the next accrued annual assessment. When due, such charge or assessment together with any other charge or assessment herein provided for, shall be a lien upon the lot and shall continue to be a lien thereon for a period of three years or until fully paid, whichever shall first occur. If such charge or assessment is not paid thirty days after the same becomes due, it shall be delinquent and shall bear interest from the date of delinquency at the rate of 7% per annum; if not paid within thirty days after delinquency date, the Association may bring court action to collect the same and there shall be added to the amount thereof the costs of preparing and filing the complaint in such action and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with costs of the action. All charges and assessments levied for maintenance of the "commons" shall be applied and used for such purposes by the Association toward the cost of the upkeep and maintenance expenses. The amount of the assessment for upkeep and maintenance may be increased and fixed from year to year by the majority of votes cast at a members' meeting.

## ARTICLE XII RESUBDIVISION OF LOTS

No lot shown on said plat shall be subdivided for the purpose of making two or more lots, except that two lots may be combined to create one new lot and further excepted that three lots or more may be combined and redivided into lots, no one of which shall contain a less number of square feet or less frontage than the smallest of said three lots so combined or resubdivided as permitted herein without written approval of the architectural committee.

## ARTICLE XIII ACCEPTANCE OF RESTRICTIONS

All purchasers of the property shown on the attached plat, by the acceptance of deeds therefor, whether from the undersigned or from subsequent owners of said property, or by the signing of agreements to purchase the same, shall thereby and by said act consent and agree to all of the restrictions, covenants and provisions hereof and shall thereby covenant and agree to be bound by and to keep and perform the same and shall be personally obligated to pay the charges or assessments hereinbefore provided for attaching as a lien during the period of their ownership. The owners of lots in Briar Cliff First and Second Subdivisions shall pay the fraction of the real estate taxes assessed to the total "commons" in accordance with the number of numbered lots so included, each numbered lot being assessed in equal amount.

## ARTICLE XIV ENFORCEMENT AND REMEDY

Violation of any of the restrictions or conditions or breach of any of the covenants or agreements herein contained shall give to the Association the right to enter upon the property upon or as to which said violation or breach exists, and summarily to abate and remove, at the expense of the owner, any erection, thing or condition that may be or exist thereon contrary to the provisions hereof without being deemed guilty of any manner of trespass. Every action or omission whereby any restriction or covenant is violated, in whole or in part, shall render it lawful for the Association, or any other lot owner, to prosecute any proceedings at law or in equity against the persons violating or attempting to violate such covenant or restriction and either to prevent him or them from so doing or to recover damages or other dues for such violation. Should any such suit be instituted, the purchaser agrees to pay a reasonable attorney's fee for the plaintiff's attorney as that fee may be fixed by the court.

## ARTICLE XV INVALIDITY

In the event any condition, covenant, restriction, agreement or charge herein contained be invalid or held invalid or void by any court of competent jurisdiction, such validity or void condition, covenant, restriction, agreement or charge shall in no way affect any other condition, covenants, restriction, agreement or charge herein contained.

ARTICLE XVI  
WAIVER OF BREACH

Waiver by the Association or any other lot owner of any of the conditions, covenants, restrictions, agreements and charges herein contained in any instance shall not constitute a waiver to enforce any of said conditions, covenants, restrictions, agreements or charges thereafter. The failure of Briar Cliff Association, a lot owner or the present owners to enforce any of the restrictions, conditions, covenants, reservations, liens, charges or other provisions herein set forth to which said property, or any part thereof is subject, shall in no event be deemed a waiver of the right so to do thereafter, or to enforce any other restriction, covenant, condition, reservation, lien, charge or other provision herein contained.

ARTICLE XVII  
SUBORDINATION TO MORTGAGES AND DEEDS OF TRUST

Each and every restriction as to said property is hereby declared subject and subordinate to the lien of any mortgage or deed of trust now or hereafter made or existing in good faith and for value, and these restrictions shall in no way restrict, impair or defeat any right of sale contained in any such mortgage or deed of trust or the foreclosure of the same; provided, however, that title to any property subject to these restrictions and obtained through sale under or foreclosure of any such mortgage or deed of trust shall thereafter be held subject to all provisions of these restrictions.

ARTICLE XVIII  
INTERPRETATION

In the case of any uncertainty as to the meaning of any of the provisions of this Declaration, the architectural committee shall, in all cases, interpret the same and such interpretation shall be final and conclusive on all interested parties.

ARTICLE XIX  
TITLE HEADINGS

The title headings as to the contents of particular articles are inserted only as a matter of convenience and for reference and in no way are, or are they intended to be, a part of this Declaration, or in any way define, limit or describe the scope or intent of the particular section or clause to which they refer.

ARTICLE XX  
SUCCESSOR OF POWERS

In the event Briar Cliff Association shall cease as a not-for-profit Illinois corporation, then all of the rights, privileges, powers and duties, together with the ownership of the "commons" shall pass and go to an entity designated by the owners of 90 percent of the lots of this subdivision and Briar Cliff First Subdivision.

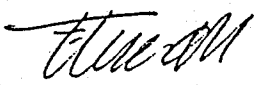
ARTICLE XXI  
MODIFICATION OF RESTRICTIONS

The owners of the legal title of record of 90 percent of all of the lots within this subdivision and Briar Cliff First Subdivision shall have the authority at any time

to release or to from time to time release all or any part of any of the restrictions, conditions, reservations, liens or charges, or other provisions herein set forth, upon their executing a document so entitled and so to do, which document shall become effective upon the same being filed in the Recorder's Office of Champaign County, Illinois, and upon such action being taken and such instrument being filed, then such change shall thereafter be effective and these restrictions shall thereby be so modified.

IN WITNESS WHEREOF, the undersigned, by its President and Secretary has hereunto set its hand and seal this 13<sup>th</sup> day of March, 1969.

PLANNED COMMUNITIES, INC.,  
an Illinois corporation

By   
President

ATTEST:

  
Secretary

STATE OF ILLINOIS        )  
                              ) SS  
COUNTY OF CHAMPAIGN)

I, the undersigned, a Notary Public, do hereby certify that M. F. Tigrak, personally known to me to be the president of Planned Communities, Inc. , and W.W. Cooper, personally known to me to be the secretary of the said corporation, whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such president and secretary, they signed and delivered the said instrument of writing as president and secretary of said corporation, and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this 1<sup>st</sup> day of March, 1969.

Richard B. [Signature]  
Notary Public

