

CONTRACT DOCUMENTS

HMCNTR.2/6/95

LIBER 146221275

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DECLARATION OF COVENANTS AND RESTRICTIONS

FOR

CUMBERLAND WOODS SUBDIVISION
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0001 APR 19 '94 12:18PM
5567 MISC 49.00

This Declaration of Covenants and Restrictions ("Declaration"), made as of the 6TH day of APRIL, 1994, by CUMBERLAND ASSOCIATES, a Michigan co-partnership, whose address is Suite One, 46401 Romeo Plank Road, Macomb, Michigan 48044 ("Declarant"), is based upon the following:

A. Declarant is the owner of and has developed a certain parcel of land located in the City of Rochester Hills, Oakland County, Michigan, as a single-family residential development, being more particularly described as:

Lots 1 through 93, both inclusive, and Twin Oaks Park East (Private) and Twin Oaks Park West (Private) of Cumberland Woods Subdivision, according to the Plat thereof as recorded in Liber 228, Pages 24, 25, 26, 27, 28, 29, 30, 31 and 32, of Plats, Oakland County Records (the "Subdivision").

15-27-301-001 parent parcel 228024

B. The Subdivision includes certain private parks for the common use, benefit, and enjoyment of all of the owners and residents of the Subdivision.

C. Declarant has entered into a certain Agreement for Subdivision Open Space Plan (the "Open Space Agreement"), dated April 11, 1994, with the City of Rochester Hills (the "City"), which Open Space Agreement was recorded at the Office of the Register of Deeds for Oakland County, Michigan, on April 18, 1994, in Liber 14618, Page 541, Oakland County Records.

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D. The Open Space Agreement imposes certain easements, covenants, conditions, and restrictions on the Subdivision and the common area, as herein defined, for the common use, enjoyment, and benefit of all owners and residents within the Subdivision.

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E. Declarant desires to impose and subject the Subdivision to certain additional covenants, restrictions, easements, obligations, charges, and liens, all as more particularly hereinafter set forth, each and all of which are for the benefit of the Subdivision and each Owner, as herein defined, of a Lot, as herein defined, in order to (i) provide for compliance with the Open Space Agreement, (ii) preserve and enhance property values and amenities in the Subdivision, (iii) insure the most beneficial development of the Subdivision as a single-family residential area, (iv) prevent any use within the Subdivision which might tend to diminish the valuable or pleasurable enjoyment thereof, (v) assure the harmony, attractiveness, and utility of the Subdivision, (vi) regulate the use of the Subdivision, and (vii) establish and define certain rights relative to the Subdivision.

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F. Declarant has deemed it desirable, for the efficient preservation of the values and amenities in the Subdivision, to create the Association, as herein defined, as a legal entity

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to (i) own, maintain, preserve, and administer the Common Area and any other areas now or hereafter owned or administered by the Association (as hereinafter defined), and such landscaping, facilities, and amenities that may be constructed thereon or used therein, (ii) collect and disburse the assessments and charges hereinafter created, and (iii) promote the recreation, health, safety, and welfare of the residents in the Subdivision.

G. Declarant may, at some future time, plat certain additional land adjacent to the Subdivision as an additional subdivision(s), and subject the lots and common areas therein to the covenants, restrictions, obligations, easements, charges, and liens set forth herein by amendments made to this Declaration.

H. It is the purpose and intention of this Declaration that all of the Lots shall be conveyed by Declarant subject to (i) the Open Space Agreement, and (ii) the covenants, restrictions, obligations, easements, charges, and liens set forth in this Declaration in order to (a) establish a general plan of uniform restrictions with respect to the Subdivision, (b) insure the purchasers of Lots the use of their Lots for attractive residential purposes, (c) secure to each lot owner the full benefit and enjoyment of his residence, and (d) preserve the general character of the neighborhood within the Subdivision.

Now, therefore, Declarant hereby publishes, declares, and makes known to all intending purchasers and future owners of the Lots within the Subdivision, that the Subdivision, and all of the Lots therein, will and shall be used, held, occupied, sold, and conveyed expressly subject to the following conditions, restrictions, covenants, and agreements, which shall be incorporated by reference in all deeds of conveyance and contracts for the sale of any of the Lots, and which shall run with the land (the Subdivision and all of the Lots therein) and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in the Subdivision, or any part thereof, and their heirs, personal representatives, successors, and assigns, and on all grantees of all individual Lots in the Subdivision and on their respective heirs, personal representatives, successors, and assigns for the time and in the manner specified herein.

ARTICLE I.

DEFINITIONS

The following terms have the following respective meanings when used in this Declaration, and the singular shall include the plural and vice versa, unless the context requires otherwise:

1. "Association" means Cumberland Woods Subdivision Association, a Michigan nonprofit corporation, its successors and assigns.

2. "Open Space Agreement" means that certain Agreement for Subdivision Open Space Place, dated April 11, 1994, between Declarant, and the City of Rochester Hills, which was recorded at the Office of the Register of Deeds for Oakland County, Michigan, on April 18, 1994, in Liber 14618, Page 541, Oakland County Records.

3. "Common Area" shall mean those areas of land within the Subdivision (including the improvements thereto) now or hereafter owned or administered by the Association for the common use, benefit, and enjoyment of the Owners. The initial Common Area to be owned by the Association is described as follows:

Twin Oaks Park East (Private) and Twin Oaks Park West (Private), Cumberland Woods Subdivision, according to the plat thereof as recorded in Liber 228, Pages 24, 25, 26, 27, 28, 29, 30, 31 and 32 of Plats, Oakland County Records.

4. "Declarant" means Cumberland Associates, a Michigan co-partnership, its successors and assigns.

5. "Declaration" shall mean this Declaration of Covenants and Restrictions for Cumberland Woods Subdivision, as recorded in the Office of the Oakland County Register of Deeds, State of Michigan.

6. "Lot" means (a) any numbered lot shown on the recorded plat of the Subdivision or and any future subdivisions subjected to this Declaration, (b) any building site resulting from the combination of Lots, and (c) any building site resulting from a proper and approved lot split of any Lot.

7. "Member" means those persons entitled to membership in the Association, as provided in this Declaration; provided, however, that for the purposes of voting in Association matters there shall be deemed to be only one (1) Member for each Lot.

8. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot, or the land contract purchaser thereof, but excluding those having any interest merely as security for the performance of an obligation.

ARTICLE II.

ESTABLISHMENT AND DEDICATION

1. Establishment of Non-Profit Corporation. There is hereby established an association of Owners of Lots 1 through 93, both inclusive, of Cumberland Woods Subdivision, to be known as the Cumberland Woods Subdivision Association. The Association shall be organized within ninety (90) days after the date the plat of Cumberland Woods Subdivision has been recorded at the Office of the Register of Deeds for Oakland County, Michigan. The Association shall be organized as a nonprofit corporation for a perpetual term under the laws of the State of Michigan and shall have such powers as are enumerated in this Declaration, as well as those set forth in the articles of incorporation and corporate by-laws for the Association.

2. Dedication of Common Area. Declarant hereby dedicates and conveys to each Owner of a Lot a right and easement of enjoyment in and to the Common Area and hereby covenants that it will convey the Common Area to the Association free and clear of all liens and encumbrances, except for such encumbrances and easements as are set forth (a) herein, (b) in the Open Space Agreement, or (c) on the plat of the Subdivision, prior to the first to

occur of (i) the conveyance by Declarant of the first Lot in the Subdivision to an Owner who is not a builder or developer, or (ii) ninety (90) days after the date that the plat of the Subdivision is recorded. Title to the Common Area shall vest in the Association subject to the rights and easement of enjoyment in and to such Common Area by the Owners. Said easement of enjoyment shall not be personal, but shall be considered to be appurtenant to the Lots and shall pass with the title to the Lots whether or not specifically set forth in the deeds of conveyance of the Lots.

ARTICLE III.

PROPERTY RIGHTS

1. Owner's Easements of Enjoyment. The right and easement of enjoyment of each Owner in and to the Common Area shall be subject to the following prior rights of the Association:

(a) The right of the Association to suspend the voting rights and right to use the Common Area by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days per infraction for any infraction of its published rules and regulations; and

(b) The right of the Association to levy assessments, as set forth in Article V hereof.

2. Delegation of Use. Any Owner may delegate, in accordance with the by-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or purchasers who reside on his Lot.

3. Easement for Subdivision Entrance Sign and Landscaping. The Association shall be permitted to enter upon those portions of Lots 1 and 2 shown on the Plat of the Subdivision as "25 Ft. Wd. Pvt. smt. for Public Util. and Landscaping" as may be necessary to install, repair, replace, and maintain such signs and landscaping as the Association shall deem appropriate.

4. Agreement for Subdivision Open Space Plan. The rights and obligations of each Owner of a lot shall in all cases be subject to the Open Space Agreement.

ARTICLE IV.

MEMBERSHIP AND VOTING RIGHTS

1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership in the Association is, and shall be, appurtenant to, and may not be separated from, ownership of any Lot. Notwithstanding the foregoing, the termination of any person's ownership interest in any Lot, and the consequent termination of such person's membership in the Association, shall not relieve such person from any debt or obligation attributable to such Lot which accrued or arose during the period such person was an Owner of such Lot.

2. Voting Rights. The Association shall be two (2) classes of membership, being Class A and Class B, as follows:

- (a) Class A membership shall be voting, and Declarant shall be the only Class A Member.
- (b) Each Owner of a Lot other than the Declarant shall be a Class B Member.
- (c) Class B membership shall be non-voting until the Transfer Date specified in Subsection 2(d) below, at which time all Owners (including Declarant) shall be entitled to vote on a one vote per lot basis (regardless of the number of Owners of any Lot).
- (d) Declarant shall have the sole vote in the Association, and the consequent right to appoint the Board of Directors of the Association (the "Board"), until such date (the "Transfer Date") as shall be the earlier to occur of (i) sixty-five percent (65%) of the lots in (A) the Subdivision, and (B) every subdivision of land which in the future is subjected by Declarant to this Declaration in accordance with Article X, Section 4 of this Declaration, shall have been sold (as evidenced by delivery of a deed for such lots to the Lot purchaser) to Owners other than builders purchasing for resale in the ordinary course of their business, (ii) four (4) years after the date of recording of the plat of the Subdivision at the Office of the Register of Deeds for Oakland County, Michigan, or (iii) such earlier date as may hereafter be designated in writing by Declarant.
- (e) From and after the Transfer Date described in Subsection 2(d) above, Class B Members of the Association shall have the voting rights described in Subsection 2(d) above, and thereafter, the Board shall be elected by the combined vote of the Class A and Class B Members (in each case, voting on a one vote per Lot basis).

ARTICLE V.

COVENANT FOR MAINTENANCE ASSESSMENTS

1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (a) annual general assessments or charges, and (b) special assessments, which assessments shall be established and collected as hereinafter provided. The general and special assessments, together with interest thereon, late payment fees, and collection costs, including reasonable attorneys' fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest thereon, late payment fees, and costs of collection thereof, including reasonable attorneys' fees, shall also be the personal obligation of the person(s) who was(were) the Owner of such Lot at the time the assessment fell due.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Subdivision and any future subdivisions subjected to this Declaration, and in particular for (a) the improvement and maintenance of the Common Area, and the landscaping, facilities, or amenities constructed thereon or used therein, including, without limitation, the storm water

retention and sedimentation control areas and facilities, storm sewers (to the extent located outside of the road rights-of-way maintained by the City), greenbelts (and berms and irrigation systems located within greenbelts), landscaped traffic islands and cul-de-sacs located within the Subdivision, fencing, access roads, temporary sedimentation basins, walkways (whether located within or adjacent to the Common Area or the wetlands), and subdivision entrance areas (including, without limitation, entrance monuments, entrance monument lighting, signs, landscaping, water features, irrigation systems, and fountains, if any), (b) the payment of water and electric bills associated with the foregoing, (c) planting and maintenance of trees, shrubs and grass, (d) construction, operation, and maintenance of recreational facilities, if any, (e) providing community services, and (f) the protection of the Owners. Notwithstanding the foregoing, the Association shall not install, or cause to be installed, a private street lighting system in any public right-of-way without first entering into a separate written agreement with the City with respect thereto.

3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Seventy-Five Dollars (\$75.00) per Lot owned by an Owner.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased as necessary each year to an amount which is not more than ten percent (10%) greater than the maximum assessment which was permissible to be assessed hereunder for the previous year without a vote of the Members.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above the ten percent (10%) increase permitted by Subsection (a) by a vote of two-thirds (2/3) of the Members who are voting in person or by proxy, at a meeting duly called for that purpose.

4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy against each Owner, in any assessment year, a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement, or maintenance of any improvement upon the Common Area and other areas, facilities, and amenities which now or hereafter may be under the control of the Association, including, without limitation, those listed above in Section 2 of this Article, or for any other legal purpose desired by the Association, provided that any such special assessment shall have the approval of two-thirds (2/3) of the votes of Members who are voting in person or by proxy at a meeting duly called for that purpose.

5. Notice and Quorum or Actions Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 of this Article shall be sent to all Members not less than fifteen (15) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast thirty percent (30%) of the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting, provided that no such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

6. Rate of Assessment. Both the general and the special assessments shall be set by the Board of Directors at a uniform rate for the Owners of all Lots and may be collected on a monthly or an annual basis.

7. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots in the Subdivision on the first day of the month following the conveyance of the first Lot to an Owner, but in any event, shall commence within one (1) year after the recording of the plat of the Subdivision at the Office of the Register of Deeds for Oakland County, Michigan. A conveyance to a builder who has purchased a lot for the intended purpose of constructing a residence thereon for sale to an Owner shall not be deemed a conveyance to an Owner. The first annual assessment shall be prorated and adjusted according to the number of months remaining in the calendar year. The Board of Directors shall endeavor to fix the amount of the annual assessment against each Lot and to establish the assessment due date at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment and the due date shall be sent to every Owner subject thereto at least thirty (30) days prior to the assessment due date. Failure by the Association to send such written notice shall not permit any Owner to avoid paying the assessment, but shall delay such Owner's assessment due date until thirty (30) days following the date that such notice of assessment is eventually sent. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.

8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid in full within thirty (30) days following its due date shall bear interest from the due date at a rate of seven percent (7%) per annum and shall be subject to a late payment fee equal to fifteen percent (15%) of the amount of the assessment to cover the cost of collection by the Association. In the event that the cost of collection, including attorneys' fees, exceeds fifteen percent (15%) of the amount of the assessment, the Association shall be entitled to collect the deficiency. The aggregate amount of the unpaid assessment, interest, late payment fee, and deficiency shall be a lien against the Lot corresponding to the unpaid assessment. The Association may bring an action at law against the Owner personally obligated to pay the assessment, interest, late payment fee, and deficiency, and may foreclose the lien against the Lot in the same manner that real estate mortgages may be foreclosed by action under Michigan law. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

9. Exempt Property. All Common Area and all other property exempt from taxation by state or local governments and dedicated for public use shall be exempt from the assessments, charges, and liens created herein.

10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein on any Lot shall be subordinate to the lien of any first mortgage covering the Lot. Sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of the assessments, but shall not extinguish the Owner's personal obligation for payment of assessments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment becoming due after such sale or from the lien thereof.

11. Management Agent. The Board shall be permitted to retain the services of a management agent to aid them in administering and carrying out the purposes of the Association, and may utilize a portion of the Association assessments to pay such management agent a fee deemed reasonable by the Board.

12. Failure of Association to Perform Certain Obligations. In the event the Association shall at any time fail to maintain the Common Area in a reasonable order and condition and in accordance with the requirements of the Open Space Agreement, the City may avail itself to the rights and remedies described in the Open Space Agreement.

ARTICLE VI.

BUILDING AND USE RESTRICTIONS FOR THE SUBDIVISION

1. Use of Lots.

(a) All Lots shall be used for single-family residence proposes only, and no building of any kind whatsoever shall be erected, re-erected, moved, or maintained thereon except one private single-family residential dwelling house and permitted appurtenant structures, if any, on each Lot, as hereinafter provided, which dwelling shall not exceed two (2) stories in height. Such dwelling house shall be designed and erected for occupation by a single private family. A private architecturally related attached garage, for the sole use of the Owner or occupant of the Lot upon which said garage is erected, may also be erected and maintained, provided that said garage is in compliance with the requirements of Section 2 of this Article VI.

(b) Notwithstanding the limitations on uses set forth in Section 1(a) above, Declarant hereby reserves the right for itself, its agents or sales representatives, and/or any builder or builders designated by Declarant, to occupy and use any house or temporary building built on or moved onto any Lot as a sales office for the sale of Lots and/or houses within the Subdivision.

2. Improvement of Lots.

(a) No building or other structure shall be constructed, erected, or maintained on any Lot, nor shall any additions, changes, or alterations to any building or structure be made on any Lot (except interior alterations) unless and until the plans and specifications therefor shall have been submitted to and approved in writing by Declarant in the manner set forth in Paragraph 2(d) hereof.

(b) No deck, patio, swimming pool, fence, outbuilding, pool enclosure, or similar other devices and/or structures, whether or not attached to any dwelling, shall be constructed, erected, or maintained on any Lot unless and until the plans and specifications therefor shall have been submitted to and approved in writing by Declarant in the manner set forth in Paragraph 2(d) hereof.

(c) Any and all construction of the buildings, structures, and other items set forth in Paragraphs 2(a) and 2(b) hereof (collectively, the "Improvements") shall be diligently completed in accordance with the plans and specifications which are ultimately approved by

Declarant. Copies of all plans and specifications, as finally approved, shall be delivered to Declarant for its permanent file.

(d) Any and all plans and specifications required pursuant to Paragraphs 2(a) and 2(b) hereof, or otherwise as provided in this Declaration, shall be prepared by a competent architect, and shall show the nature, kind, shape, height, materials, color scheme, and location of the Improvements to be constructed upon the subject Lot. Declarant shall have the right to refuse to approve any such plans or specifications which it determines, in its sole discretion, would not be suitable or desirable for aesthetic or other reasons or for no reason; and in so passing upon such plans and specifications, Declarant shall have the right to take into consideration the suitability of the proposed Improvements on the Lot upon which they are proposed to be erected, and the harmony as planned in view of the appearance from adjacent or neighboring properties. Declarant shall also have the right to specify the materials to be used in the construction of any Improvements on the Lots, and may require suitable screening of Improvements with adequate shrubs, landscape materials, and other modifications. It is understood and agreed that the purpose of this Paragraph 2(d) is to cause the Subdivision to develop into a beautiful, harmonious, private, residential area, and if any disagreement arises with respect to the provisions or applications of this Paragraph 2(d), the decision of Declarant shall control and be conclusive upon all parties.

(e) In the event Declarant fails to approve, conditionally approve, or disapprove any plans and specifications required to be submitted to Declarant pursuant to this Declaration within thirty (30) days from the date on which the same have been received by Declarant, then such approval will not be required as a condition precedent to construction of the Improvements set forth therein, provided that the plans and specifications (and all construction based upon such plans and specifications) (i) conform to the restrictions set forth in this Declaration and all applicable statutes, laws, ordinances, and regulations, including zoning laws, and (ii) are otherwise in harmony with the existing Improvements constructed on the Lots.

(f) No Lot may be divided, subdivided, or otherwise split or combined with any other lot except with the prior written consent of Declarant, and if so approved by Declarant only in compliance with the requirements of (i) Section 263 of the Michigan Subdivision Control Act of 1967 (M.C.L.A. §560.101, et seq), as the same may hereafter be amended, or any replacement or successor statute thereto, and (ii) all applicable ordinances of the City and all other governmental authority(ies) having jurisdiction.

3. Size and Character of Buildings.

(a) No dwelling shall be permitted on any Lot unless the living area thereof shall be not less than one thousand five hundred (1,500) square feet in the case of a one (1) story dwelling, and not less than one thousand eight hundred (1,800) square feet in the case of any other dwelling. All computations of square footage shall include the actual area within the outer surfaces of the exterior walls of the dwelling and shall be determined exclusive of basements (whether or not of the "walk-out" variety), garages, porches, terraces, breezeways, and other unenclosed or unheated areas.

(b) All dwellings constructed on the Lots shall include a private garage which shall be directly attached and architecturally related to the dwelling. Every garage shall

provide space for at least two (2) and not more than three (3) automobiles. Carports are specifically prohibited in the Subdivision.

(c) No old or existing buildings may be moved onto any Lot, and no used materials (except reclaimed brick) may be used in the construction of any Improvements in the Subdivision.

(d) All dwellings shall have finished exteriors of brick, stone, or other masonry materials, on any combination on at least seventy-five percent (75%) of each side of the first floor level and brick, stone, wood, stucco, or any combination thereof above the first floor level, except that notwithstanding the foregoing, all chimneys on exterior walls shall have finished exteriors of brick, stone, or other masonry material. The use of cement block, clay, cinder block, aluminum siding, asbestos siding, concrete, or imitation brick (other than face brick) are expressly prohibited.

(e) The design, material, color, and construction of all mailboxes, newspaper holders, and their stands must be approved by Declarant (and the United States Postal Service with respect to mailboxes) prior to their erection. They must also be properly maintained and kept of sightly appearance.

(f) Grantor, by appropriate instrument in writing may designate a person, firm, or corporation to perform such of its duties and obligations hereunder as it shall specify, which designation shall be revocable at the will, whim, or caprice of Declarant.

4. Minimum Setback and Yard Requirements. No building shall be erected or maintained on any Lot which has a front yard setback of less than twenty-five feet (25') from the front Lot line, a rear yard setback of less than thirty-five feet (35') from the rear Lot line [except in the case of Lots backing up to a Common Area, in which event a rear yard setback of not less than thirty feet (30') shall be required], nor a side yard setback of less than ten feet (10') from each side Lot line. The total of both side yards shall not be less than twenty feet (20') in width, with regard to interior Lots. In the case of a corner Lot, the side yard abutting a street shall be considered a front yard for purposes of applying the minimum setbacks described in this Section 4. Approval of a variance by the City of Rochester Hills Board of Appeals permitting front, rear, or side yards smaller than the above minimums shall be deemed a valid waiver of this restriction.

5. Minimum Lot Size. In the event that one or more Lots or parts of Lots are developed for use as a site for a single residence, all restrictions set forth herein shall apply to such resulting site. In any event, no dwelling shall be erected, altered, placed on, or permitted to remain on any Lot in the Subdivision unless such Lot or site has a width at the front building setback line of at least seventy-two feet (72') in the case of an interior Lot, and ninety-two feet (92') in the case of a corner Lot, and an area of at least nine thousand six hundred (9,600) square feet.

6. Animals.

(a) No farm animals, livestock, poultry, or wild animals shall be kept, bred, or harbored on any Lot, nor shall any animals be kept or bred for commercial purposes. Not more than three (3) domesticated animals commonly deemed to be household pets may be kept on any Lot by the Owner and members of his household so long as such pets shall have

such care so as not to be objectionable or offensive to others due to noise, odor, or unsanitary conditions.

(b) Any dog kept on a Lot shall be kept either on a leash or in a dog run or pen, and shall not be allowed to run loose or unattended. No dog runs or pens shall be permitted to be erected or maintained unless they are solely located within the rear yard adjacent to a wall of the main dwelling or garage and facing the rear or the interior of the Lot, nor shall such runs or pens extend beyond the end of the dwelling or garage into the side yard. All pens shall be made of wood, decorative block, or approved fencing materials, or any combination thereof, and must be approved prior to the construction thereof in accordance with Section 3(d) of this Article VI. Pens may not exceed three hundred (300) square feet in area or four feet (4') in height. The exterior sides of a pen shall be landscaped with plantings to screen the view thereof from adjacent Lots, and such pen shall be kept and maintained in a clean and sanitary condition.

(c) No Owner shall cause, nor shall he permit or suffer any occupant of any Lot which he owns, or his or their invitees or guests, to cause the molestation, harm or destruction of wild fowl or other wildlife on, in, or over any portion of his Lot. No Owner of a Lot shall use, nor shall he permit or suffer any occupant of any Lot which he owns, or his or their invitees or guests, to use any B-B guns, firearms, air rifles, pellet guns, bows and arrows, sling shots, or any other weapons on his Lot.

7. Wells. No well shall be dug, installed, or constructed on any Lot.

8. Sight Distance at Intersections. No fence, wall, shrubbery, sign, or other obstruction to vision which obstructs sight lines at elevations above thirty inches (30") from the established street grades shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five feet (25') from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

9. Easements.

(a) Easements are reserved as shown on the plat of the Subdivision. The use of all or a part of such easements may at any time or times hereafter be granted or assigned by Declarant, its successors or assigns, to any person, firm, corporation, governmental unit, or agency which furnishes services or utilities for use in the Subdivision.

(b) Private easements for public utilities, greenbelts, and entrance signs have been granted and reserved on the plat of the Subdivision.

(c) No structure(s) of any kind or nature whatsoever shall be constructed, erected, maintained, or placed within any drainage, sedimentation, or storm water detention area.

(d) No structure(s) of any kind or nature whatsoever shall be constructed, erected, maintained, or placed over or on any utility easement(s); provided, however, that after the utilities have been installed, the areas over such utility easement(s) may be seeded or

sodded. All other planting or Lot line Improvements of any type over or on any easements shall be allowed only so long as they do not interfere with, obstruct, hinder, or impair the drainage plan of, or utilities in, the Subdivision, and so long as access be granted, without charge or liability for damages, for the maintenance of the utilities, underground drainage lines, underground facilities, and surface drainage swales, and/or for the installation of additional facilities.

10. Prohibited Vehicles and Structures.

(a) No housetrailers, motor homes, commercial vehicles, trailers, cars under repair or restoration, boats, boat trailers, camping vehicles, pickup campers, camping trailers, trucks weighing in excess of two and one-half (2-1/2) tons empty, or any portion thereof, may be parked on or stored on any street in the Subdivision or any Lot, unless stored fully enclosed at all times within an attached garage. Commercial vehicles and trucks shall not be parked or stored in the Subdivision, or on any Lot therein, except while making normal deliveries or pickups in the normal course of business.

(b) Trailers, tents, shacks, barns, sheds, and other out buildings of any kind or nature whatsoever, whether permanent or temporary, are expressly prohibited within the Subdivision, and no temporary occupancy or residence shall be permitted in unfinished residential dwellings; provided, however, that (i) temporary tents for parties shall be permitted to be erected for periods of not more than forty-eight (48) hours, and (ii) permanent gazebo-type structures and appurtenant swimming pool bathhouses may be constructed and maintained if approved in advance by Declarant in accordance with Section 3(d) of this Article VI.

(c) Antennae of any kind and satellite reception equipment (including, without limitation, so-called "ham radio towers" and "satellite dishes") which are visible from the exterior of any dwelling or located on any Lot are expressly prohibited in the Subdivision.

(d) The provisions of this Section 6 shall not apply to Declarant or any builder which it may designate, during the construction period or during such periods as any dwelling may be used for model or display purposes.

11. General Conditions.

(a) No Lot shall be used or maintained nor permitted to be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste, and the same shall not be kept on any Lot except in sanitary containers properly concealed from public view. Garbage containers shall not be left at the road for more than twenty-four (24) hours in any one week.

(b) No laundry other than blankets or comforters shall be hung for drying on any Lot so as to be visible from outside of the dwelling constructed on the Lot. Blankets or comforters may be hung outside for drying or "airing out" if kept within fifteen feet (15') of the house.

(c) All homes in the Subdivision shall be equipped with electric garbage disposal units in the kitchen.

(d) The grade, slope, and/or contour of any Lot shall not be changed without the prior written consent of Declarant, the City, and all other governmental authorities having jurisdiction. This restriction is intended to prevent interference with the master drainage plan for the Subdivision.

(e) No "through the wall" or "through window" air conditioners may be installed on any wall of any building in the Subdivision.

(f) No outside compressors for central air conditioning units may be installed or maintained in such a manner so as to create a nuisance to the residents of adjacent dwellings.

(g) No permitted swimming pool shall be higher than one foot (1') above the existing lot grade. No temporary or permanent above-ground pools shall be permitted.

(h) No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done on or around any Lot which may become an annoyance or nuisance to the neighborhood or the owners of any of the Lots in the Subdivision.

(i) Any basketball net shall be (i) on a free-standing post and set back at least twenty-five feet (25') from the road, or (ii) attached to a dwelling above the garage door, except on corner lots on which basketball nets attached to the dwelling shall not be permitted.

(j) Any debris resulting from the construction and/or the destruction by fire or otherwise, in whole or in part, of any dwelling or Improvements on any Lot shall be promptly removed [within forty-eight (48) hours of issuance of temporary or final certificate of occupancy, or final acceptance of any permit therefor by the appropriate governmental authority(ies), or the occurrence of such destruction, whichever occurs first] from such Lot in order to preserve the sightly condition of the Subdivision. Each Owner shall prevent their Lot(s), and any dwelling(s), structure(s), or other improvement(s) thereon from becoming unsightly or unkempt, or from falling into a state of disrepair.

12. Sales Agency and/or Business Office. Notwithstanding anything to the contrary set forth elsewhere herein, Declarant and/or any builders which it may designate may construct and maintain on any Lot or Lots which they may select, a sales agency and a business office for the sale of any Lots and/or dwellings in the Subdivision, or in other lands owned by the Declarant, or may use said Lot or Lots for the construction of a model house or houses for such purposes, and Declarant and such designated builders may continue to do so until such time as all of the Lots in which Declarant or such designated builders have an interest are sold by them.

13. Lease Restrictions. No Owner of any Lot shall lease and/or sublet less than the whole of any dwelling on any Lot. Any lease of an entire dwelling shall be subject to all of the terms, covenants, provisions, and requirements hereof, including, without limitation, the provisions of Article VI, Section 1 hereof.

14. Fences.

(a) No fence, wall, or solid hedge may be erected, grown, or maintained in front of or along the front building line of any Lot; provided, however, that low ornamental

fencing may be erected along the front lot line in architectural harmony with the design of the house. The side lot line of each corner lot line which faces a street shall be deemed to be a second front building lot line and shall be subject to the same restrictions as to the erection, growth, or maintenance of fences, walls, or hedges as is hereinbefore provided for front building lines.

(b) No fence or wall may be erected or maintained on or along the side lines of any Lot, and/or on or along the rear line of any Lot, and/or anywhere on any Lot except as may be required by Declarant or any governmental authority(ies) having jurisdiction with respect thereto in connection with the construction of a swimming pool or dog runs or pens in either case, the construction of which has been approved in advance in accordance with the requirements of this Declaration.

(c) Any such fence, wall, or solid hedge required by Declarant or any governmental authority(ies) shall be subject to the prior written approval of Declarant as to the location, materials, design, and style thereof in accordance with the provisions of Section 3(d) of Article VI hereof.

(d) No such required fence, wall, or solid hedge shall be greater in height than the minimum required by any governmental authority(ies) having jurisdiction, nor, without the prior written permission of Declarant, extended beyond the front building line. No wire or chain link fences shall be permitted on any Lot. Permanent fences shall be constructed of wood, masonry materials, or ornamental iron, as approved by Declarant, and the design of all fences must be approved by Declarant prior to installation.

(e) If a particular condition arises in which fencing beyond four feet (4') in height, or of a material other than those herein specified is desirable, a request for approval by Declarant pursuant to Section 3 of Article VI hereof, and Declarant shall have the right to grant such permission if, in its sole opinion, a variance from the provisions of this Section 14(e) is desirable.

15. Signs. No signs or billboards shall be placed, erected, or maintained on any Lot, except for one (1) professional quality sign of not more than six (6) square feet in size and not more than three feet (3') in height for the sole purpose of advertising the Lot and the dwelling on the Lot for sale or rent.

All permitted signs must also be in compliance with the ordinances and regulations of the City and all other governmental authorities having jurisdiction with respect thereto. Such sign shall have been constructed and installed in a professional manner and shall comply with all ordinances of the City. All permitted signs shall be kept clean and in good repair during the period of its placement and maintenance on any Lot. The provisions of this Section 15 shall not apply to (a) such signs as may be installed or erected on any Lot by Declarant, or any builder which it may designate, during the construction period or during periods as any dwelling on any Lot may be used as a model or for display purposes, or (b) any Subdivision entrance sign(s).

16. Landscaping.

(a) Each Owner of a Lot, including any Owner who is a builder-purchaser from Declarant, shall at all times comply with all erosion control measures imposed by the

City, the Oakland County Drain Commission, or Declarant in order to protect the sedimentation and storm water basins, and to keep the streets and sewers in the Subdivision free of silt, dirt, and debris. Compliance with such erosion control measures shall be required by the Owners at all times during their ownership of a Lot, whether prior to, during, or following construction of a residence on the Lot and landscaping of the Lot.

(b) Upon the completion of a residence on each of the Lots, the owner thereof (and the word "owner", as used in this connection, is intended to mean the party who purchases a residence from the builder thereof, and each subsequent purchaser thereof) shall cause all portions of the Lot to be finish-graded, seeded or sodded, and suitably landscaped on or before sixty (60) days after the completion of the dwelling, or by the next July 1 if the residence is completed between September 1 and May 1 of any year. All lawns and landscaping in the Subdivision (including any berm and landscaping areas) shall be of an aesthetically pleasing nature and shall be continuously and properly well maintained at all times. No statues may be placed in the front yard of any dwelling. It is the purpose of this Section 3 to cause the Subdivision to develop into a beautiful, harmonious, private residential area. Subject to the limitations imposed by Article VIII, the Lot and any drainage ditch contiguous to each Lot shall be kept free of weeds by the Owner thereof.

(c) Should any Owner fail to maintain the lawns, trees, berms, shrubbery, or other landscaping on his Lot in good order and repair in accordance with "good property management", then Declarant or the Association may serve written notice upon the Owner setting forth the manner in which the Owner has so failed. In the event that the deficiency of maintenance, repair, or replacement stated in such notice is not cured within fifteen (15) days following the date of such notice, Declarant or the Association, as the case may be, shall be authorized and permitted to enter the Lot for the purpose of curing the deficiency. If, following the cure of the deficiency, the deficiency reoccurs and persists, Declarant or the Association, as the case may be, shall be authorized and permitted to enter the Lot as often as is reasonably required for the purpose of continually maintaining in good order and repair the lawns, trees, berms, shrubbery, and other landscaping on the Lot, which right of Declarant or the Association shall continue until such time as Declarant or the Association reasonably shall determine that the Owner of the deficient Lot is willing and able to reassume the maintenance responsibility.

The cost incurred by Declarant or the Association for such maintenance, repair, and replacement, plus an administrative fee equal to twenty percent (20%) of such cost, shall be due and payable by the Owner of such Lot to Declarant or the Association, as the case may be, within ten (10) days following such date as Declarant or the Association sends the Owner a bill therefor. If the amount billed is not paid within such ten (10) day period, the unpaid amount shall be a charge on the Lot, shall be a continuing lien upon the Lot, and shall be treated as an additional assessment against the Lot subject to treatment in accordance with the provisions of this Declaration controlling and affecting such assessments, including, without limitation, those stated in Article V of this Declaration.

17. Fertilizer Use. In order to protect the detention basins, the Common Area, the wetlands, and the natural environment in general, all grass seeded or sodded on a Lot shall be comprised of a low maintenance grass mixture such as fifty percent (50%) Kentucky Bluegrass and fifty percent (50%) fine leaf Fescue. An improved bluegrass may be used for part or all of the Kentucky Bluegrass portion of the mixture, such as Baron, Adelphi, Galaxy, Victa, Cheri, or Touchdown. Unless a soil test indicates a serious need for phosphorus and

potassium, fertilizers such as 12-12-12, 5-10-5, or 10-6-4 shall not be used. Recommended fertilizers are those containing little or no phosphorus and potassium such as 23-0-6, 30-4-4, or 26-4-4. Nitrogen only fertilizers such as urea (46-0-0) and ammonium nitrate (30-0-0) are not permitted because of their high water solubility, which might contribute to the contamination of wetlands in the vicinity of the Subdivision.

18. Sidewalks. Each Lot in the Subdivision shall at the time of construction of a residence thereon also have constructed and installed thereon a four inch (4") thick concrete sidewalk, five feet (5') in width, located one foot (1') from the front property line of the Lot and running within the public right-of-way parallel to the adjoining street at the front of the Lot. Each corner Lot shall have two (2) intersecting sidewalks constructed and installed on it in accordance with the specifications of the previous sentence, with one (1) sidewalk running parallel with the adjoining street at the front of the Lot and the other sidewalk running parallel with the adjoining street at the side of the Lot. Each sidewalk on a Lot shall tie in with the sidewalk existing or to be built on the adjacent Lot(s) or Common Areas, if any, and in the case of corner Lots shall also connect into the adjoining street perpendicular to the sidewalk. Notwithstanding anything to the contrary, all sidewalks shall be constructed and installed in accordance with the requirements of the City and the Oakland County Road Commission.

19. Architectural Control Committee.

(a) Declarant may, in its sole discretion, at any time prior to the date on which all of the Lots in the Subdivision have been sold and conveyed by Declarant to third parties, assign, transfer, and delegate to an architectural control committee (the "Architectural Control Committee") all of Declarant's rights to approve or refuse to approve and plans, specifications, drawings, elevations, or other matters with respect to the construction or location of any dwelling or Improvement on any Lot in the Subdivision. Thereafter, the Architectural Control Committee shall exercise all of the authority and discretion granted to Declarant in Section 3 of Article VI hereof relative to approving or disapproving such matters, and Declarant shall have no further responsibilities with respect to such matters. The Architectural Control Committee shall be comprised of up to three (3) members to be appointed by Declarant. Upon the Transfer Date, Declarant shall transfer its right to appoint the members of the Architectural Control Committee to the Association. Until such transfer, Declarant reserves the right to appoint and remove members of the Architectural Control Committee in its sole discretion.

(b) Any submission(s) to Declarant or the Architectural Control Committee for any approval provided for under this Declaration shall be in writing, and shall conform to the requirements of Section 3 of Article VI hereof. The primary purpose for providing architectural control is to ensure the proper and harmonious development of the Subdivision in order to maximize the aesthetic beauty of the Subdivision and its blending with the surrounding area. To this end, Declarant or the Architectural Control Committee, as the case may be, shall be deemed to have broad discretion in determining what dwellings or Improvements will enhance the aesthetic beauty and desirability of the Subdivision, or otherwise further or be consistent with the purposes of this Declaration. Approvals and/or waivers may be granted, denied, or conditioned for any reason or for no reason. In no event shall either Declarant or the Architectural Control Committee have any liability whatsoever to anyone for their approval or disapproval of any plans, drawings, specifications, or elevations, or the dwellings or improvements built or to be built pursuant thereto, whether such alleged liability is based on negligence, tort, express or implied contract, fiduciary duty, or otherwise. By way

of example, neither Declarant nor the Architectural Control Committee shall have liability to anyone for the approval of any plans, specifications, elevations, or the like which are not in conformity with the provisions of this Declaration, or for the disapproval of any plans, specifications, elevations, or the like which arguably are in conformity with the provisions hereof.

ARTICLE VII.

PRESERVATION OF WETLANDS

1. Portions of the Common Area contain wetland areas, as designated on the plat of the Subdivision, which wetland areas are regulated by the Michigan Department of Natural Resources (the "Regulated Wetlands").
2. In order to protect and preserve the Regulated Wetlands, the Regulated Wetlands shall not be filled, graded, improved, landscaped, altered, or disturbed for any purpose or in any manner whatsoever, and no underground improvement or utilities shall be installed within the Regulated Wetlands, except as specifically authorized under permits issued by the Michigan Department of Natural Resources and all other governmental authorities having jurisdiction.
3. Portions of Lots 3, 4, and 5 of the Subdivision contain wetland areas, as designated on the plat of the Subdivision, which wetland areas are not regulated by the Michigan Department of Natural Resources or the City (the "Unregulated Wetlands").
4. In order to protect and preserve the Unregulated Wetlands, the Unregulated Wetlands shall not be filled, graded, improved, landscaped, altered, or disturbed for any purpose or in any manner whatsoever, without the prior approval of Declarant, which approval may be granted, withheld, or conditioned by Declarant for any reason or for no reason.

ARTICLE VIII.

RESTRICTIONS ON THE USE OF COMMON AREA

1. **Motor Vehicles.** All vehicles propelled by a motor, whether electric, gas, or otherwise, other than those used for maintenance purposes, including but not limited to snowmobiles, all-terrain vehicles, motorcycles, dirt bikes, mo-peds, automobiles, trucks, and vans are expressly prohibited from operation or storage in the Common Area.
2. **Prohibited Structures.** No wall, platform, building, or structure may be constructed in the Common Area without the prior written consent and approval of the Architectural Control Committee and all governmental authorities having jurisdiction.
3. **Pedestrian Pathway.** The Association shall maintain in good order and condition any pedestrian pathway located within or adjacent to the Common Area, or located within or adjacent to the publicly dedicated roadways located within the Subdivision, wherever such pathway system is located.

4. Pollution; Water Pumping. No Owner shall throw or deposit trash, refuse, or rubbish of any kind in the Common Area.
5. Dogs. No Owner shall allow his dog to run loose in the Common Area.
6. Use of Common Area. That portion of Common Area which is not Wetlands shall be used only for passive recreation or such additional uses as may be established if approved in writing by not less than fifty-one percent (51%) of the Members and thereafter ratified by the City Council of the City. Golfing and all active sports are prohibited. No Owner shall permit or suffer the use of the Common Area for any commercial purposes. All activities in the Common Area shall be carried on in such a manner as not to be disturbing or offensive to other Owners.
7. Wildlife. No Owner shall cause, nor shall he permit or suffer any occupancy of the Common Area or any Lot which he owns, or his or their invitees or guests, to cause the molestation, harm, or destruction of wild ducks, geese, birds, or other wildlife on, in, or over the Common Area. No Owner of a Lot shall use, nor shall he permit or suffer any occupancy of the Common Area or any Lot which he owns, or his or their invitees or guests, to use any B-B guns, bow and arrow, sling shots, firearms, air rifles, pellet guns, or other weapons within the Common Area or any Lot.
8. Liability. The Association shall maintain liability insurance in sufficient amounts for the purpose of protecting itself as well as the Owners, the Declarant, and builders from the burden of liability resulting from accidents which may cause death, injury, or damage to anyone while in the Common Area or other property under jurisdiction, ownership, or control of the Association.
9. Published Rules. The Declarant reserves the right to publish from time to time reasonable rules and regulations consistent herewith governing the use of the Common Area. If the Declarant does not object, the Association shall also be permitted to publish such reasonable rules and regulations as shall contribute to the overall safety and well being of the Subdivision residents.

ARTICLE IX.

ASSESSMENT OF FINES

1. General. The Association, acting through its Board, shall be permitted to assess monetary fines against any Owner in the event that the Owner or his tenants, guests, family, or invitees shall violate any of the provisions of this Declaration or any of the rules and regulations duly established by the Association. Such Owner shall be deemed responsible for such violations whether they occur as a result of his personal actions or the actions of his family, guests, tenants, or invitees.
2. Procedures. Upon any such violation being alleged by the Board, the following procedures shall be followed:
- (a) Notice. Notice of the violation, including the provision of this Declaration or the rules or regulations violated, together with a description of the factual nature of the

alleged offense shall be sent by first class mail, postage prepaid, or shall be personally delivered to the Owner.

(b) Opportunity to Defend. The offending Owner shall have an opportunity to appear before the Board and offer evidence in defense of the alleged violation. The appearance before the Board shall be at its next scheduled meeting or a special meeting called to hear the evidence, but in no event shall the Owner be required to appear less than ten (10) days from the date of the notice.

(c) Default. Failure to respond to the notice of violation shall constitute a default by the Owner.

(d) Hearing and Decision. Upon appearance by the Owner before the Board and presentation of evidence of defense, or, in the event of the Owner's default, the Board shall, by majority vote of a quorum of the Board, decide whether a violation has occurred. The Board's decision shall be final.

3. Amounts. Upon a finding by the Board that a violation has occurred, the following fines shall be levied against the offending Owner:

(a) First Violation. No fine shall be levied.

(b) Second Violation. A Twenty-Five Dollar (\$25.00) fine shall be levied.

(c) Third Violation. A Fifty Dollar (\$50.00) fine shall be levied.

(d) Fourth Violation and Subsequent Violations. A One Hundred Dollar (\$100.00) fine shall be levied.

In addition to such fines, the Owner, at the option of the Board, shall be subject to the suspension of his voting rights in the Association and of his right to use the Common Areas for a period in each case not to exceed sixty (60) days per violation.

4. Collection. The fines levied pursuant to Section 3 above shall be assessed against the Owner in the same manner as the annual Association assessments and shall be due and payable to the Association on the first day of the next following month. Failure to pay the fine when due shall subject the offending Owner and his lot(s) to all of the liabilities set forth in Article V, Section 8 hereof.

ARTICLE X.

GENERAL PROVISIONS

1. Enforcement. The Declarant, the Association, and each Owner shall each have the right to enforce, by any proceeding at law or in equity, all of the restrictions, conditions, covenants, reservations, obligations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure of any of the aforementioned parties to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions, which other provisions shall remain in full force and effect.

3. Amendment. The covenants and restrictions of this Declaration, other than those contained above in Article VIII hereof, shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period after the Transfer Date by a recorded instrument signed by not less than seventy percent (70%) of the Owners and thereafter by an instrument signed by not less than sixty percent (60%) of the Owners. Prior to the Transfer Date, Declarant, without the consent, vote, signature, or approval of any Owner, the Association or any Members thereof, may, prospectively or retroactively, by instrument recorded at the Office of the Register of Deeds for Oakland County, Michigan, modify, restate, waive, repeal, amend, change, or replace this Declaration, or any or all of the provisions hereof other than Article VII hereof, with respect to any thing or any particular Lot or Lots located within the Subdivision or located within any future subdivision(s) subjected to this Declaration, as Declarant in its sole discretion deems necessary or desirable, including, without limitation, for the purpose of adding additional residential Lots and/or Common Area and making this Declaration and/or other restrictions apply to such Lots and/or Common Area.

Declarant's right to amend, change, or replace this Declaration shall be permitted at any time prior to the Transfer Date, notwithstanding an assignment of Declarant's rights and powers pursuant to Section 5 of this Article X.

4. Annexation of Additional Lots and/or Common Area. Declarant reserves the right any time in the future to amend this Declaration by subjecting to it one or more additional adjacent subdivisions of land hereafter developed and platted by Declarant or its successors or assigns. Such additional subdivisions may or may not contain Common Area. Subject to the limitations set forth in Section 8 of this Article, any such amendment(s) to this Declaration shall provide that the owners of all residential Lots located in such future added subdivisions shall be required to be Members of the Association and shall be subject to the covenants, restrictions, obligations, easements, charges, and liens set forth herein. Such amendment(s) shall also provide that the Common Area contained within the Subdivision and all such future added subdivisions shall be for the use and benefit of all owners of Lots in the Subdivision and all such future added subdivisions. Additional Lots and Common Area may be annexed to the Association by Declarant without the consent or approval of the Association or any of its Members or any Owner. Annexation by action of the Association shall require the consent of two-thirds (2/3rds) of its Members.

5. Assignment or Transfer of Rights and Powers. Declarant hereby reserves the unequivocal right to assign to the Association or any other party, in whole or in part, from time to time, any or all of the rights, powers, titles, easements, and estates hereby reserved or given to Declarant herein, including the right and power to approve or disapprove any use, act, proposed action, or any other matter or thing, except that Declarant's right to amend, change, or replace this Declaration without the consent of the Owners as provided in Section 3 of this Article X may not be assigned. Any such permitted assignment or transfer shall be made by appropriate instrument, in writing, and such assignee shall thereupon have the same rights and powers, and be subject to the same obligations and duties as herein given and reserved to and assumed by Declarant in connection with the rights, powers, titles, easements, and estates

so assigned, and such instrument, when executed by such assignee, shall without further act release said Declarant from all obligation, duties, and liability in connection therewith.

6. Deviations by Agreement with Developer. Declarant hereby reserves the right at any time prior to the Transfer Date to enter into agreements with the Owner of any Lot or Lots, without the consent of Owners of other Lots or adjoining or adjacent property, to deviate from any or all of the covenants set forth in this Declaration provided there are practical difficulties or particular hardships evidenced by such Owner. Following the Transfer Date, such power vested in Declarant shall be transferred to the Association. Any such deviation (which shall be manifested by an agreement in writing) shall not constitute a waiver of any such covenant as to the remaining Lots.

7. Transition of Association Board of Directors. The Association By-Laws shall provide that the members of the Board may, at the Declarant's option, be appointed by the Declarant until the Transfer Date, and thereafter, shall be elected by the Owners. In the event that Declarant no longer desires to appoint the members of the Board and the Owners are unwilling or unable to elect a Board who desire to serve as Directors, the Declarant reserves the right to grant to the Management Agent of the Association or to such other designee chosen by Declarant the right to appoint a Board composed of either Owners or non-Owners, or some combination thereof. The fee charged by the Management Agent or other designee and by the Directors shall be paid directly by the Association. The right of the Management Agent or other designee to appoint the Board shall continue until the first annual meeting at which the Owners are willing and able to elect a Board of Owners who desire to serve as Directors.

In witness whereof, Declarant has executed this Declaration of Covenants and Restrictions for Cumberland Woods Subdivision as of the date first above written.

IN THE PRESENCE OF:

CUMBERLAND ASSOCIATES,
a Michigan corporation

By: ADCO CUMBERLAND DEVELOPMENT
CORPORATION, INC.,
a Michigan corporation, Partner

By: Adorno Piccinini
Adorno Piccinini, President

Paul A. Bringer
Paul A. Bringer

TERRI BURNS VEITH
TERRI BURNS VEITH

"Declarant"

LIBER 146220296

STATE OF MICHIGAN)
) ss.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 6th day of April, 1994, by Adorno Piccinini, the President of ADCO CUMBERLAND DEVELOPMENT CORPORATION, a Michigan corporation (and a Partner in CUMBERLAND ASSOCIATES, a Michigan co-partnership), on behalf of it.

TERRI BURNS VEITH
 , Notary Public
Oakland County, Michigan
My Commission Expires: _____

TERRI BURNS VEITH
Notary Public, Macomb County, Michigan
Acting in Oakland County
My Commission Expires February 9, 1998

DRAFTED BY AND WHEN
RECORDED RETURN TO:

Paul A. Bringer, Esquire
Miro Miro & Weiner, P.C.
Suite 100
500 North Woodward Avenue
P. O. Box 908
Bloomfield Hills, Michigan 48303-0908