

DECLARATION OF PROTECTION COVENANTS

WABEEK SOUTH

BLOOMFIELD HILLS, MICHIGAN

ARTICLE I

Property Subject to this Declaration

The real estate which is, and shall be held, transferred, sold, conveyed and occupied subject to the Covenants set forth herein is located in West Bloomfield Township and Bloomfield Township, Oakland County, Michigan and is more particularly described as follows to wit:

Lots ___ through ___:...

Which said lots, together with such other real estate as may hereafter be made subject to these Covenants, are hereinafter referred to collectively as "Wabeek South."

ARTICLE II

General Purposes of this Declaration

The real property described in Article I hereof is subjected to the Covenants hereby declared to promote proper use and appropriate development and improvement of Wabeek South and every part thereof, to protect the owners of the property therein against such improper use of surrounding lots as may depreciate the value of their property; to guard against the erection thereon of buildings built of improper or unsuitable materials; to promote adequate and reasonable development of said property; to encourage the erection of attractive improvements thereon, with appropriate locations thereof; to prevent haphazard and inharmonious improvements; to secure and maintain proper setbacks from streets, and adequate free spaces between structures; to promote desired high standards of maintenance and operation of community facilities and services for the benefit and convenience of all owners of property and all residents and in general to provide adequately for a residential subdivision of the highest quality and character.

ARTICLE III

Definitions

BASEMENT. A portion of a building located partly underground, but having less than half its clear floor-to-ceiling height below the average grade of the adjoining ground at the building front.

BUILDABLE AREA (for the purpose of measuring lot width). The narrowest width within the 30 feet of lot depth immediately in back of the frontyard setback line.

BUILDING. Any structure having a roof, supported by columns or by walls and intended for the shelter, housing, or enclosure of any person, animal, or chattel.

BUILDING, ACCESSORY. A subordinate building or portion of a principal building the use of which is incidental to that of the principal building and customary in connection with that use.

BUILDING HEIGHT. The vertical distance measured from the established ground level to the highest point of the roof surface, in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of rafters between the eaves and the ridge of a gable, hip, or gambrel roof. Chimneys and ornamental architectural projections should not be included in calculating the height.

CELLAR. The portion of a building located partly or wholly underground and having half or more than half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

DECLARANT. Wabeek South Homeowners Association and their successors and assigns.

DWELLING. A residential building or portion thereof, but not including hotels, motels, rooming houses, nursing homes, tourist homes or trailers.

FAMILY. Two or more persons each related to the other by blood, marriage, or legal adoption, or a group of not more than two persons not all so related, together with his or their domestic servants, maintaining a common household in a dwelling.

FRONT BUILDING LINE. A line forty feet from the front lot line.

LOT. A parcel of land, under common fee ownership, occupied by or intended for occupancy by one dwelling and having frontage upon a street. Therefore, a "lot" may or may not coincide with a lot of record.

LOT AREA. The area of a horizontal plane, bounded by the vertical planes through front, side and rear lot lines.

LOT LINE FRONT. That boundary line of a lot which is along an existing street line as shown on the recorded plat. On corner lots, the owner may select either street lot line as the front lot line.

LOT LINE, REAR. That boundary of a lot which is most distant from and is, or is approximately, parallel to the front lot line. If the rear lot line is less than 10 feet in length, or if the lot line forms a point at the rear, the rear lot line shall be deemed to be a line 10 feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any boundary of a lot which is not a front or rear lot line.

SIDE STRIP. The unpaved strip of land within a street "Right-of-way" which is parallel to the paved roadway.

STORY. That portion of a building included between the surface of any floor and the surface of the floor next above; or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story, and a cellar shall not be counted as a story.

STORY, HALF. Is an uppermost story lying under a sloping roof, the useable floor area of which does not exceed seventy-five (75) percent of the floor area of the story immediately below it, and not used or designed, arranged or intended to be used in whole or in part, as an independent housekeeping unit or dwelling.

STRUCTURE. Anything erected or constructed, the use of which requires more or less permanent location on or in the ground, or attached to something having a permanent location on or in the ground. A sign or other advertising device, detached or projecting, shall be constructed to be a separate structure.

ARTICLE IV

General Restrictions

1. Land Use and Building Type

All lots in Wabeek South shall be used for private residence purposes only, and no building, except as specifically authorized elsewhere in this Declaration, shall be erected, re-erected or maintained thereon, except one dwelling, designed by a licensed architect and erected for occupancy by one family, and a private garage containing no more than four parking spaces for the sole use of the owners or occupants of the dwelling. Said garages may have living quarters in connection therewith for the sole use of servants of the owner or occupants, but shall not be used separately for rental purposes. No other accessory building or structures may be erected in any manner or location except as approved in writing by Declarant.

2. Building Height

No dwelling in Wabeek South shall be erected, altered or placed, which is more than two and one-half stories or 30 feet in height, whichever is lesser. No accessory building or structure shall exceed 14 feet in height unless a greater height is approved in writing by Declarant.

3. Dwelling Quality and Size

It is the intention and purpose of these Covenants to assure that all dwellings in Wabeek South shall be of a quality of design, workmanship and materials approved by Declarant. All dwellings shall be approved by Declarant. All dwellings shall be constructed in accordance with the applicable Governmental Building Code and with more restrictive Building Code and more restrictive standards that may be required by Declarant. The minimum ground floor area of the dwelling, exclusive of attached garages, carports, open terraces and breezeways, shall be.

a. For one-story dwellings - not less than 1,850 square feet.

b.

For one and one-half story dwellings - not less than 1,400 square feet on the first floor and not less than 675 square feet on the second floor.

c.

For two-story dwellings - not less than 1,100 square feet on the first floor and not less than 1,100 square feet on the second floor.

d.

Tri-levels shall not be computed using the total square footage of the two uppermost levels. Bi-levels shall be computed using the total square footage of that floor at or above the approximate grade of the street abutting the front yard line. The total square footage so computed for the tri-levels and bi-levels shall be equal to at least the minimum square foot requirements for one floor residence, as herein provided.

e.

The rear exterior elevation of homes bordering on golf courses shall be designed with the same care and variety of materials used in designing the front elevation.

f.

On lots bordering golf courses, no fencing, wall or hedge shall be permitted in excess of forty-two (42) inches in height on the rear property line nor on the rear twenty-five (25) feet of the interior side lot lines.

4. Location on Lot

No building in Wabeek South shall be located on a lot nearer to the front lot line than the front building line of 40 feet. No dwelling shall be located within 25 feet of a rear lot line or within 25 feet of side lot lines counting both sides. Tennis courts and swimming pools shall be screened from any street lying entirely within Wabeek South by a wall, solid fence, evergreen hedge or other visual barrier as approved in writing by Declarant. No tennis court or swimming pool shall be located on a lot nearer to the front line, or a side lot line adjoining a street, than the minimum setback of 40 feet.

5. Lot Width

No dwelling shall be erected, placed or permitted to remain on any lot having a width within the buildable area of less than 130 feet in Bloomfield Township or 100 feet in West Bloomfield Township.

6. Driveways

Access driveways and other paved areas for vehicular use on a lot shall have a base of compacted gravel, crushed stone or other approved base material and shall have a wearing surface of asphaltic concrete, or the equivalent thereof. Plans and specifications for driveways, culverts, pavement edging or markers shall be as approved in writing by Declarant.

7. Natural Drainage Ways

Where there exists on any lot or lots a condition of accumulation of storm water remaining over an extended period of time, the lot owner may, with the written approval of Declarant, take such steps as shall be necessary to remedy such condition, provided that no obstructions or diversions of existing storm water drainage swales and channels, over and through which surface storm water naturally flows upon or across any lot, shall be made by the lot owner in such manner as to cause damage to other property.

8. Easements

In the recorded Plat of Wabeek Three Subdivision, Declarant has created easements which shall be for purposes of underground drainage lines and/or surface drainage swales in and along the streets and such other locations as are shown by dotted lines and marked "Drainage easement" on the plat.

9. Home Occupations, Nuisances and Livestock

No home occupation or profession shall be conducted in any dwelling or accessory building thereto located in Wabek South. No noxious offensive activity shall be carried on, in or upon any premises, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. No animals, poultry, reptiles or birds (except for no more than two dogs or cats over four months of age and caged house birds) shall be kept or maintained on any lot. No burning of refuse shall be permitted outside the dwelling, except that the burning of leaves shall be permitted as or if allowed by ordinance of Bloomfield Township or West Bloomfield Township, as the case may be. The use of any garage, carport, driveway or parking area which may be in front or adjacent to or part of any lot as a habitual parking place for commercial vehicles is prohibited. The parkway located between the pavement and the lot line of each lot shall not be used for the parking of private or commercial vehicles or boats or trailers. The term "commercial vehicles" shall include all automobiles, station wagons, trucks and vehicular equipment which shall bear signs or have printed on the side of same reference to any commercial undertaking or enterprise. The habitual violation of the parking regulations set forth in this paragraph shall be a nuisance and violation of paragraph 1 of this Article IV.

10. Plant Disease or Noxious Insects

No plants or seeds, or other things or conditions, harboring or breeding infectious plant diseases or noxious insects shall be introduced or maintained upon any part of a lot.

11.

Nameplate and Hospitality Light Standards, Television or Radio Antennae and Towers, Laundry Drying Facilities or Flag Poles.

There shall be not more than one nameplate on each lot. A nameplate shall not be more than 48 square inches in area, and contain the name of the occupant and/or the address of the dwelling. It may be located on the door of the dwelling or the wall adjacent thereto, or upon the wall of an accessory building or structure, or free-standing in the front or side yard, provided that the height of the nameplate is not more than 12 inches above the adjoining ground grade. One hospitality light standard, of a design approved by Declarant, may be located within the front yard. No television or radio antennae or tower, or laundry-drying equipment shall be erected or used outdoors, whether attached to a building or structure or otherwise. Flag poles are permitted, provided the pole is not more than 25 feet in height, unless otherwise approved by Declarant.

12. Temporary Structures

No trailer, basement of an uncompleted building, tent, shack, garage, barn (except as permitted in paragraph 1 of this Article IV) and no temporary building or structure of any kind shall be used at any time for a residence either temporary or permanent. Temporary buildings or structures used during the construction of a dwelling, and such buildings or structures shall be removed upon the completion of construction. Nothing contained in these Covenants shall require the removal of or limit the use by Declarant, of Temporary real estate sales offices for transacting the sales of lots in Wabek South.

13. Architectural Controls

a.

It is understood and agreed that the purpose of architectural controls is to promote an attractive, harmonious residential development having continuing appeal. Until the construction plans and specifications are submitted to and approved in writing by Declarant, (i) no building, fence, wall or other structure shall be commenced, erected or maintained nor (ii) shall any addition, change or alteration therein be made except for interior alterations nor (iii) shall exterior color changes be made. The said construction plans and specifications shall show the nature, kind, shape, height, materials, color scheme (including samples of exterior building materials upon request), location on lot, approximate cost of such building or other structure and the grading and landscaping plans of the lot to be built upon. Declarant shall have the right to refuse to approve any such construction plans or specifications, grading plan, or landscape plan, which are not suitable or desirable, in the opinion of Declarant, for aesthetic or other reasons; and in so passing upon such construction plans and specifications, grading plan or landscape plan. Declarant shall have the right to take into consideration the suitability of the proposed building or other structure with the surroundings, and the effect of the building or other structure on the outlook from adjacent or neighboring properties. In no instance shall a building of a design exactly the same as any other in Wabek South be permitted except as permitted be Declarant.

b.

All plans, specifications and other material shall be filed in the office of Declarant located in Bloomfield Hills, Michigan, for approval or disapproval. A report in writing setting forth the decisions of Declarant, and the reasons therefor, shall thereafter be transmitted to the applicant by Declarant, within 30 days after the date of filing complete plans, specifications and other material by the applicant. Declarant will aid and collaborate with prospective builders and make suggestions from preliminary sketches. Prospective builders are encouraged to submit preliminary sketches for informal comment prior to the submittal of architectural drawings and specifications for approval. In the event: (a) Declarant fails to approve or disapprove within 30 days after complete submission, the final plans, specifications and other material, as required to this Declaration; or (b) no suit to enjoin construction has been filed within 30 days after commencement of such construction, approval shall not be required, and the related requirements of this Declaration shall be deemed to be complied with.

14. Underground Wiring

No lines or wires for communication or the transmission of electric current or power shall be constructed, placed or permitted to be placed anywhere in Wabek South other than within buildings or structures or attached to their walls, unless the same shall be contained in conduits or approved cables constructed, placed and maintained underground.

15. Maintenance of Side Strips

The owners of lots in Wabek South shall be responsible for the maintenance of parkways or public rights-of-way located between their lot lines and edges of street pavements on which said lots abut.

16. Option of Declarant to Purchase if Sold

Declarant hereby reserves an assignable option to purchase any real property together with any improvements thereon in Wabeek South on the same terms and conditions as may be contained in any bona fide offer that any owner from time to time of any such property and improvements may receive for the purchase thereof, if the owner desires to accept such offer. Declarant shall have 15 days from actual receipt by it of notice from any such owner of any such offer to exercise the option to purchase said property and improvements. Said notice shall be given to Declarant within five (5) days after any such offer is received by such owner and shall specify the terms and conditions contained in such offer, the names of the offeror, his residence address and his business. Said option shall be effectively exercised, if at all, by a written notice from Declarant mailed or delivered to said owner within said 15-day period wherein Declarant agrees to purchase said premises on said terms and conditions. Should Declarant fail within said period so to exercise its option, then the owner of said premises shall have the right to sell said premises to said offeror on said terms and conditions subject to each and every restriction, limitation and condition herein contained. This option shall terminate 21 years after the date on which the Declaration is recorded, unless sooner terminated.

17. Deviations by Agreement with Declarant

Declarant hereby reserves the right to enter into agreements with the grantee of any lot or lots (without the consent of grantees of other lots of adjoining or adjacent property) to deviate from any or all of the Covenants set forth in this Article IV, provided there are practical difficulties or particular hardships evidenced by the grantee, and 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 real estate in Wabeek South.

ARTICLE V Wabeek South Association

1. Creation and Purposes

There shall be formed a Michigan not-for-profit corporation to be known as the Wabeek South Association (hereinafter referred to as the "Association"). The purposes of the Association shall be to promote high standards of maintenance and operation of all property in Wabeek South reserved or dedicated by Declarant for the common use of all residents and owners of property therein and to arrange the provision of services and facilities of common benefit, and in general to maintain and promote the desired character of Wabeek South.

2. Membership and Voting

Declarant and every record owner of a fee simple interest in a residential lot in Wabeek South, shall become and be a member of the Association. Each such member, including Declarant, shall be entitled to one vote on each matter submitted to a vote of members for each such lot owned by him or it. Where title to a lot is in more than one person, such co-owners acting jointly shall be entitled to but one vote.

3. Powers of the Association

The Association shall have the following powers:

a. To the extent such services are not provided by any governmental body:

(1)

To care for, spray, trim, protect and replant trees on all streets and in other public places where trees have once been planted, and to care for, protect and replant shrubbery and grass in the side strips which are in streets and set aside for the use of residents and owners of property in Wabeek South.

(2) To provide for the plowing and removal of snow from public streets.

(3) To spray and to take other measures for mosquito and fly abatement within Wabeek South.

(4)

To employ duly qualified peace officers for the purpose of providing such police protection as the Association may deem necessary or desirable in addition to that provided by any governmental body.

(5) To maintain entranceways to Wabeek South.

b.

To mow, care for, and maintain vacant and unimproved property and remove rubbish from same and to do any other things necessary or desirable in the judgment of the officers of the Association to keep any vacant and unimproved property and side strips in front of any property in Wabeek South neat in appearance and in good order and to make and collect reasonable charges therefor from owners of such property in amounts not to exceed the cost to the Association.

c.

To provide for the maintenance of facilities in any public street, park or entranceways, or on any land set aside for the general use of the property owners and residents in Wabeek South.

e.

To make such improvements to the entranceways to Wabeek South and to side strips within streets in Wabeek South and provide such other facilities and services as may be authorized from time to time by the affirmative vote of two-thirds of the members of the Association acting in accordance with its articles and by-laws, provided, however, that any such action so authorized shall always be for the express purpose of keeping Wabeek South a residential subdivision of the highest quality and character.

4. Method of Providing General Funds

a.

For the purpose of providing a general fund to enable the Association to exercise the powers, and make and maintain the improvements and render the services herein provided for, the Board of Trustees of the Association shall determine for each year the total amount required of such fund for such year and may levy an annual assessment uniformly against each lot in Wabeek South.

b.

In the event of failure of any owner to pay any assessment on or before 30 days following notice to such owner of such assessment or the scheduled

due date thereof, if later, then such assessment or the scheduled due date thereof, if later, then such assessment shall become delinquent and shall bear interest at the rate of 7 percent (7%) per annum from the due date thereof to the date of payment, and the Association shall have a lien on each lot against which such assessment is levied to secure payment thereof, plus interest. When delinquent, payment of both principal and interest may thereafter be enforced against the owner personally, or as a lien on said real estate. It shall be the duty of the Association to bring suits to enforce such liens before the expiration thereof. The Association may, at its discretion, file certificates of nonpayment of assessments in the office of the Registrar of Deeds whenever any such assessments are delinquent. For each certificate so filed, the Association shall be entitled to collect from the owner or owners of the real property described therein a fee of \$10.00 which fee is hereby declared to be a lien upon the real estate so described in said certificate. Such fee shall be collectable in the same manner as the original assessments provided for herein and in addition to the interest and principal due thereon.

c.

The liens herein provided shall be subject and subordinate to the lien of any valid mortgage or deed of trust now existing or which may hereafter be placed on said real property prior to the effective dates of such liens. In the event of the issuance of a deed, pursuant to foreclosure, the grantee of such deed shall take title free and clear from any liens herein provided which occur prior to the recording of such deed.

d.

Such liens shall continue for a period of five years from the date of delinquency and no longer, unless within such time suit shall have been filed for the collection of the assessment, in which case the lien shall continue until the termination of the suit and until the sale of the property under execution of the judgement in such suit.

5. Additional Members

Declarant, as to lots owned by it, and every other owner of a fee simple interest in real estate subdivided hereafter by Declarant in all of the SW 1/2 Section 18 and all of the W 1/2 of the SE 1/2 Section 18 lying S of West Long Lake Road and that part of the NW 3/4 of the N 1/2 of Section 18 lying S of Long Lake Road and the E 3/4 of the SE 3/4 of Section 13 and the S 19.26 acres of the NE 1/4 Section 13 lying E of Middlebelt Road and the E 1/2 of the NE 1/4 Section 24 lying N of Lone Pine and that part of Section 13 lying N of Bloomfield Highland subdivision and E of Middlebelt Association, provided that such real estate is subjected by Declarant to the Covenants, including this Article V, herein set forth, as amended from time to time.

6. Expenditures Limited to Assessment For Current Year

The Association shall not expend more money within any one year than the total amount of the assessment for that particular year, plus any surplus which it may have on hand from previous assessments; nor shall said Association enter into any contract whatever binding the assessment of any future year, except for contracts for utilities, and no such contract shall be valid or enforceable against the Association.

7. Procedure for Amendments

Notwithstanding the provisions of Paragraph 3 of Article VI to the contrary, this Article V may be amended at any time following the affirmative vote thereon by a two-thirds majority of the total number of votes entitled to be cast by members pursuant to paragraph 2 of Article V hereof. Said agreement or agreements to amend shall be duly executed and acknowledged by such owners and recorded in the Office of the Registrar of Deeds, Oakland County, Michigan.

8. Until such time as the Association is formed as aforesaid, Declarant shall have all the powers of the Association specified in this Article V.

ARTICLE VI

General Provisions

1. Each of the Covenants set forth in the Declaration shall continue and be binding as set forth in paragraph 2 of this Article VI for an initial period of thirty (30) years from the date of recording these Covenants and thereafter for successive periods of 25 years each.

2. The Covenants herein set forth shall run with the land and bind Declarant, its successors, grantees and assigns, and all parties claiming by, through, or under them. Declarant, and each owner or owners of any of the above land, from time to time shall have the right jointly and separately to sue for and obtain a prohibitive or mandatory injunction to prevent the breach of, or to enforce the observance of, the Covenants above set forth, or any of them, in addition to the right to bring an ordinary legal action for damages. Whenever there shall have been built on any lot in Wabeek South any structure which is and remains in violation of the Covenants above set forth, or any of them for a period of thirty (30) days after actual receipt of written notice of such violation from Declarant by the owner of such lot, then Declarant shall have, in addition to the foregoing rights, the right to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, and such entry and abatement or removal shall not be deemed a trespass. In no event shall the failure of Declarant and such owners to enforce any of the Covenants herein set forth as to a particular violation be deemed to be a waiver of the right to do so as to any subsequent violation.

3. The members of the Association may revoke, modify, amend or supplement in whole or in part any or all of the Covenants and conditions contained in the Declaration and may release from any part or all of said Covenants all or any part of the real property subject thereto, but only at the following times and in the following manner.

a.

Any such change or changes may be made effective at any time within ten years from the date of recording of this Declaration following the affirmative vote thereon by a three-fourths majority of the total number of votes entitled to be cast by members of the Association pursuant to paragraph 2 of Article V hereof;

b.

Any such change or changes may be made effective at the end of said initial thirty (30) year period or any such successive twenty-five (25) year period following the affirmative vote thereon by a two-thirds majority of the total number of votes entitled to be cast by members of the Association pursuant to paragraph 2 of Article V hereof, at least five years prior to the end of any such period;

c.

Any such consents shall be effective only if expressed in a written instrument or instruments executed and acknowledged by each of the consenting owners and recorded in the Office of the Registrar of Deeds of Oakland County, Michigan; provided, however, that Article V hereof may be amended at any time in the manner therein set forth. A recordable certificate by an accredited abstractor or title guaranty company doing business in Oakland County, Michigan, as to the record ownership of said property shall be deemed conclusive evidence thereof with regard to compliance with the provisions of this section. Upon and after the effective date of any such change or changes, it or they shall be binding upon all persons, firms and corporations then owning property in Wabeek South and shall run with the land and bind all persons claiming by, through or under any one or more of them.

4. All Covenants, liens, and other provisions herein set forth shall be subject to and subordinate to all mortgages or deeds of trust in the nature of a mortgage now or hereafter executed, encumbering any of the real property in Wabeek South and none of said Covenants, liens or other provisions shall supersede or any way reduce the security or affect the validity of any such mortgage or deed of trust in the nature of a mortgage. However, if any such property is acquired in lieu of foreclosure, or if sold under foreclosure of any mortgage or under the provisions of any deed of trust in the nature of a mortgage, or under any judicial sale, any purchaser at such sale, his or its grantees, heirs, personal representatives, successors or assigns shall hold any and all such property so purchased or acquired subject to all the Covenants, liens, and other provisions of this Declaration, except as hereinabove set forth in paragraph 4(c) of Article V.

5. If a court of competent jurisdiction shall hold invalid or unenforceable any part of any Covenants or provision contained in this Declaration, such holding shall not impair, invalidate or otherwise affect the remainder of this Declaration which shall remain in full force and effect.

6. Declarant hereby reserves the right to vest the Association or any other not-for-profit corporation with all or any of the rights, privileges, easements, powers and duties herein retained or reserved by the Declarant by written instrument or instruments in the nature of an assignment which shall be effective when recorded in the Office of the Registrar of Deeds of Oakland County, Michigan, and Declarant shall thereupon be relieved and discharged from every duty so vested in the Association or in such other not-for-profit corporation.

7. When used in these Covenants "successors" means any person, corporation or other entity who succeeds to the position of Declarant, as developer of lots in Wabeek South and "assigns" means any person, corporation or other entity who takes by written assignment from Declarant.

8. Each owner of a lot in Wabeek South shall file the correct mailing address of such owner with Declarant and shall notify Declarant promptly in writing of any subsequent change of address. Declarant shall maintain a file of such addresses and make the same available to the Association. A written or printed notice, deposited in the United States Post Office, postage prepaid, and addressed to any owner of the last address filed by such owner with Declarant, shall be sufficient and proper notice to such owner wherever notices are required in this Declaration.