

F930919

SMOKLER TRUESDELL SUBDIVISION

DECLARATION OF COVENANTS AND RESTRICTIONS

This DECLARATION OF COVENANTS AND RESTRICTIONS, herein after referred to as the "Declaration", made this 14th day at November, 1973, by BERT L. SMOKLER COMPANY, a Michigan corporation, Suite 200, Northland Tower, Southfield, Michigan, hereinafter referred to as the "Developer";

WITNESSETH:

WHEREAS, the Developer is the owner, and HUNTLEY HOMES INC, A Michigan Corporation, of 19400 West Ten Mile Road, Southfield, Michigan, is the land contract purchaser from the Developer of certain real property situated in the Township of Canton, County of Wayne, State of Michigan, which is more particularly described as:

Lots 1 through 317, SMOKLER TRUESDELL SUBDIVISION

Part of Section 14, T. 2s., R. 8E.,
Canton Township, Wayne County, Michigan
As recorded in Liber 95, Pages 44, 45, 46, 47, 48.
Wayne County Records.

WHEREAS, the Developer desires to create thereon, together with such additions as may hereafter be made thereto, a residential community with permanent park, open space and common facilities for the benefit of such residential community; and

WHEREAS, the Developer desires to provide for the preservation of the value of and amenities in such residential community, and for the preservation and permanent maintenance of the park, open space and common facilities therein: and

WHEREAS, the Developer desires to subject the real property described above to the covenants, restrictions, easements, charges and liens hereafter set forth each of which is for the benefit of and shall run with and bind the sold real property and each owner thereof; and

WHEREAS, the Developer deems it desirable, for the benefit of such residential community, to create an agency to which shall be delegated and assigned the powers of maintaining and administering the park, open space and common facilities, and of administering and enforcing the covenants, restrictions, easements, charges and liens set forth in this Declaration, and or collecting and disbursing the assessments and charges hereinafter created; and

RECORDED JUL 31 1974 AT 1:33 O'CLOCK PM
BERNARD L. YOUNGBLOOD, Register of Deeds
WAYNE COUNTY, MICHIGAN 48226

WHEREAS, the Developer has caused to be incorporated under the laws of the State of Michigan, as a non-profit corporation, SMOKLER-TRUSDELL ASSOCIATION, for the purpose of exercising the powers and functions aforesaid.

NOW, THEREFORE, the Developer hereby declares that the real property described above is, and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and items hereinafter set forth.

ARTICLE I.
DEFINITIONS

Section 1. "Developer" shall mean and refer to BERT L. SMOKLER & COMPANY, a Michigan corporation, its respective successors, assigns, heirs and personal representatives, but from and after the recordation or the Plat for Smokler-Truesdell Subdivision and this Declaration, HUNTLEY HOMES, INC., shall be deemed the Developer, with all the attendant duties and rights.

Section 2. "Association" shall mean and refer to SMOKLER TRUESDELL ASSOCIATION, a Michigan non-profit corporation, its successors and assigns.

Section 3. "Properties" shall mean and refer to that certain real property herein before described, and such additions thereto as may hereinafter be brought within the jurisdiction or the Association.

Section 4. "Common Areas" shall mean and refer to those areas of land denoted as Blue Mountain Park, Loveland Park, and Winter Park on the recorded plat of the Properties, and intended to be owned by the Association, and to be devoted to the common use and enjoyment of the Owners of the property and any improvements thereon.

Section 5. "Lot" shall mean and refer to any parcel or land shown as such upon recorded plat of the Properties, with the exception of the Common Areas hereinabove defined, and otherwise restricted herein for residential purposes, and for the construction and occupancy thereon of a single-family dwelling in accordance herewith, and shall include such dwelling.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons, or entities, of the fee simple title to any Lot, part or the Properties, who occupies such Lot as his residence, but not including any mortgagee unless and until such mortgagee shall have acquired such fee simple title pursuant to foreclosure, or any proceeding or conveyance in lieu of foreclosures. Where more than one person or entity has an interest in the fee simple title to any lot, the interests, or all such persons collectively shall be that of a single Owner.

Section 7. "Member" shall mean and refer to all those Owners who are members of the Association, as hereinafter set forth.

ARTICLE II.

PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

Section 1. Existing Properties. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is more particularly described as follows:

Lots 1 through 317 SMOKLER TRUESDELL SUBDIVISION

Part of Section 14. T. 2S., R. 8E..
Canton Township, Wayne County,
Michigan As recorded in Liber
Wayne County Records.

ARTICLE III.

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 1. Membership. Every person or entity who is the 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.

Section 2. Voting Rights. The Association shall have two classes of membership: Class A and Class B.

(a) Only the Developer or its designee shall be entitled to Class A memberships. The Developer or its designee shall be entitled to one Class A membership for each Lot owned by it, either in fee or on land contract. Each Class A member shall be entitled to one vote. Upon the transfer by the Developer or its designee of a Lot to an owner, the Class A membership for that Lot shall terminate.

(b) One Class B membership shall be issued to each Owner of a Lot, other than the Developer. Class B membership shall have no voting rights, until the event described in (c) shall occur.

(c) At such time as the number of Class A memberships issued and outstanding is less than one-third of the number of Class B memberships validly issued and outstanding, all Class A and Class B memberships then outstanding and all memberships subsequently issued by the Association, shall be and be deemed to be Class A memberships and entitled to one vote.

ARTICLE IV.

PROPERTY RIGHTS IN THE COMMON AREAS

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3 hereof, every Member shall have a right and easement of enjoyment in and to the Common Area(s) and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Area(s). The Developer may retain title to the Common Area(s) until such time as it has completed the improvement of the existing Properties, and until such time as, in the opinion of the Developer, the Association is able to maintain the same, but, notwithstanding any provision herein contained, the Developer hereby covenants that it shall convey the Common Area(s) to the Association, free and clear of all liens and encumbrances, except easements and rights-of-way of record, not later than three years from the date of recordation of Declaration.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment of the Members created herein are, and shall be subject to the following:

- (a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area(s); and
- (b) The right of the Association to suspend the voting and enjoyment rights of any member for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed thirty (30) days for any infraction by such Member of its published rules and regulations; and
- (c) The right of the Association to dedicate or transfer all or any part of the Common Area(s) to any public agency, authority or utility for such purposes, and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer be effective unless an instrument signed by the holders of two-thirds of all outstanding Class A memberships has been recorded, agreeing to such dedication or transfer and as to the conditions thereof; and provided further, that no such dedication or transfer, or determination as to the conditions thereof, shall be effective unless the prior consent of the Charter Township of Canton, Wayne County, Michigan, by and through its Township Board, shall have been obtained.

Section 4. Delegation of Use. Any Owner may delegate in accordance with the By-Laws of the Association. His right of enjoyment in and to the Common Area(s) to the members of his family, his tenants, or to land contract vendees who reside on the property.

ARTICLE V.

COVENANT FOR MAINTENANCE ASSESSMENT

Section 1. Creation of the Liens and Personal Obligations of Assessments. The Developer, for each Lot owned by it within the properties, hereby covenants, and each Owner or any Lot within the Properties by acceptance of a deed therefor, whether or not it shall be expressed in any such deed or other conveyance, shall be deemed to covenant and agree to pay to the Association annual assessments or charges, and the annual assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with such interest thereon and costs of collection thereof; as hereinafter provided, shall also be the personal obligation of the person(s) who was the Owner of such Lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the properties, and, in particular, for the operation, maintenance, management and improvement of the Common Area(s), including, but not limited to the payment of taxes and insurance thereon, the repair and replacement thereof, for additions thereto and improvements thereof, and for the cost of labor, equipment, materials, management and supervision for and in connection with the Common Area(s) and the Association.

Section 3. Basis and Maximum of Annual Assessments. There shall be no assessments of any kind for the calendar year 1973. From and after January 1, 1974, unless the Board of Directors decides otherwise, the annual assessment shall be \$15.00 per Lot. From and after January 1, 1975, the annual assessment may be increased to \$25.00 per Lot by the Board of Directors, without membership holders' consent for at least the next succeeding three-year period. Thereafter, the board of Directors of the Association may fix the actual annual assessment for any year. If, however, the amount of the assessment so determined by the Board of Directors shall be more than 5% of the assessment for the prior year, the approval or 2/3 of the Class A Members shall be obtained at a meeting duly called for such purpose.

Section 4. Uniform Rate of Assessments. The annual assessments shall be fixed and established at the same rate for all Lots within the Properties.

Section 5. Notice and Quorum for Action Authorized under Section 3. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 shall be sent to all Members at least thirty days in advance of each meeting, and shall set forth the purpose thereof at the first meeting so called under Section 3 hereof, the presence at the meeting of Members, or of proxies, entitled to cast sixty (60%) of all the votes of the outstanding Class A memberships shall constitute a quorum. If the required quorum is not present at such meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one half of the required quorum at the preceding meeting, provided that such subsequent meeting shall be held no less than sixty days following the preceding meeting at which a quorum was not present.

Section 6. Date of Commencement of Annual Assessments Due Dates. The annual assessment provided for herein shall commence on the date (which shall be the first day of a month) fixed by the Board of Directors of the Association to be the date of commencement, but not later than January 1, 1974, unless the Board of Directors decides otherwise. The first annual assessments shall be made for the balance of the calendar year, and shall become due and payable on the day fixed for commencement. The amount of the annual assessment which may be levied for the balance of the term remaining in the first year of assessment shall be an amount which bears the same relationship to the annual assessment specified in Section 3 hereof as the remaining number of months in that year bear to twelve. The same reduction in the amount or assessment and method of computation thereof shall apply to the first assessment levied against any property which is hereafter added to the Lots now subject to assessment at a time other than the beginning of any assessment period. The annual assessments for any year, after the first year, shall become due and payable on the first day of January of said year.

Section 7. Duties of Board of Directors. The Board or Directors of the Association, subject to the limitations set forth in Sections 3 and 4 hereof, shall fix the amount of the assessment against each Lot for each assessment period at least thirty days in advance of such date or period, and shall at that time prepare a roster of the Lots and the assessments applicable thereto, which shall be kept in the office of the Association, and shall be open to inspection by any Owner. Written notice of the Assessment shall thereupon be sent to every Owner subject thereto. The Association shall, upon demand and payment of a reasonable charge, furnish to any Owner liable for such assessment(s) a certificate in writing, signed by an officer of the Association, setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner: The Lien: Remedies of the Association. If any assessment is not paid on the date when due, then such assessment shall become delinquent, and shall, together with such interest thereon and costs of collection thereof as hereinafter provided, thereupon become a continuing lien on such Lot, which shall bind such Lot in the hands of the then Owner, his heir, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment(s), however, shall remain his personal obligation for the statutory period, and shall not pass to his successors in title unless expressly assumed by them. If the assessment is not paid within thirty days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of six percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against The Lot, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, or in connection with such foreclosure, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above prescribed and a reasonable attorney fee to be fixed by the court, together with the costs of the action.

Section 9. Special Assessments for Capital Improvements. In addition to fixing the annual assessments, the Board of Directors of the Association may fix and levy, 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 or replacement of a capital improvement upon the Common Area(s), including fixtures, and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the voting membership who are voting in person or by proxy at a meeting duly called for this purpose, and further provided that said assessment shall be ratably allocated among all platted lots in the above described subdivision, allocation per lot to be determined by multiplying the total special assessment by a fraction whose numerator is one lot, and whose denominator is all platted lots above described.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessment(s) provided for herein is and shall be subordinate to the lien(s) or any mortgage or mortgages now or hereafter placed upon any Lot subject to assessment hereunder; provided. However, the such subordination shall apply only to the assessments which have become due and payable prior to sale or transfer of such Lot pursuant to foreclosure of such mortgage(s), or prior to any other proceeding or conveyance in lieu of foreclosure. Such sale, transfer or conveyance shall not, however, relieve such Lot from liability for any assessment thereafter coming due, or from the lien of any such subsequent assessment.

Section 11. Exempt Property. The Common Area(s), as defined in Article 1, Section 4 hereof, shall be exempted from the assessments, charge and lien created herein.

ARTICLE VI.

RESTRICTIONS UPON USE, OCCUPANCY, ETC.

Section 1. Single Family Dwellings.

(a) Lots 1 through 317, both inclusive, shall be designated as "single family" lots, and shall be used only for residential purposes. No building shall be erected, altered, placed or permitted to remain on any said Lot other than one detached single family dwelling not to exceed two stories in height, and a private garage for not more than three cars for the sole use of the Owner or occupant of said lot, upon which the single family dwelling and garage shall have been erected, and subject further to the additional covenants and restrictions hereinafter set forth and imposed upon and against said lots.

(b) The ground floor area of the main dwelling structure of a single family dwelling shall not be less than 900 square feet for a one-story dwelling, nor less than 700 square feet for a two story dwelling and further, there shall not be less than a combined total of 900 square feet on the grade and upper levels or a split level dwelling, provided, however, that within each dwelling structure there shall be a minimum floor area of 900 square feet, measured from the exterior faces of the exterior walls, exclusive of the area of basements, unfinished attics, attached garages, breezeways, utility rooms, enclosed and unenclosed porches.

(c) No single family dwelling shall be erected or placed on any lot having a width of less than 60 feet at the minimum front building setback line, nor shall any dwelling be erected or placed on any lot having all area less than 7,200 square feet, provided, however, that, if any of the above described Lots shall be reduced in total area to less than 7,200 square feet by the taking, use or purchase of a portion thereof for a public purpose by a public agency, this provision shall not apply to prohibit the construction of a dwelling upon such lot as reduced in size.

Section 2. Set-Back and Side Yard Requirements.

(d) No single family residential building shall be located on any Lot nearer than 25 feet to the front line, or nearer than 25 feet to a side street Lot line, in the case of a corner Lot; provided, however, that where a corner lot shows a common rear yard relationship with the lot immediately to the rear thereof, and a common side yard relationship with the block directly across the common separating street, a minimum side yard or 10 feet on the side street of such lot shall be permitted. Garage locations on interior and corner lots shall conform to the set-back requirements for the main dwelling structure.

(e) Except as above and hereinafter set forth, all single family dwelling structures with an attached garage facing the street shall be so located and erected upon the lot as to provide a minimum side yard on one side thereof of not less than 5 feet, and the combined total of the two side yards on such lots shall not be less than 10 feet; provided. However that in the case of a dwelling structure without an attached garage there shall be a minimum side yard of at least 10 feet on the drive side of the Lot, and a minimum side yard or at least 5 feet on the opposite side thereof. And, provided further, that with the approval or the appropriate official agencies or the Charter Township of Canton, or its successor a dwelling structure with an attached garage facing the street may be so located and erected upon the Lot as to provide a combined total for the two side yards on each such Lot of not less than 10 feet, with a minimum side yard of at least 5 feet on each side thereof.

(f) Notwithstanding the provisions of this section, variances and exceptions therefrom shall be permitted if first approved and authorized by the appropriate agency of the Charter Township of Canton in accordance with its zoning ordinance.

Section 3. Exterior Walls. The exterior walls of all dwelling structures shall be constructed of brick veneer or any other building material, i.e. aluminum or wood siding, or combination thereof.

Section 4. Easements. Easement for the construction installation and maintenance or public utilities, and for surface drainage facilities, and for sanitary sewers, storm sewer, and water main facilities, are reserved as shown on the recorded plat. Within all of the foregoing easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance or such service facilities and utilities, including underground electrical and telephone local distribution systems, or which may change, obstruct, or retard the flow or direction of water in and through drainage channels in the easement, nor shall any change which may obstruct or retard the flow or surface water, or be detrimental to the property or others, be made by occupant in the finished grade of any lot once established by the builder upon completion of construction of the house thereon. The easement area of each lot and all improvements in it shall be maintained in a presentable condition continuously by the Owner of the Lot, except for those utilities for which a public authority or utility company is responsible, and the Owner or the Lot shall be liable for damage to service facilities and utilities thereon, including damage to electric, gas and telephone distribution lines and facilities therein.

Section 5. Landscaping. All lots within the properties shall have a lawn installed and shrubbery planted by the Owner thereof within one year after the completion of the dwelling structure located thereon, to eliminate or minimize surface erosion.

Section 6. Public Utilities. All public utilities such as water mains, sanitary sewers, storm sewers, gas mains, electric and telephone local subdivision lines, and all connections to same, either private or otherwise, shall be installed underground: provided, however, that above ground transformers, pedestals, cable and/or other feeder pole lines, and other above ground electric and telephone utility equipment associated with or deemed necessary by the Detroit Edison Company and the Michigan Bell telephone Company or the undersigned, or the

undersigned for underground utility installations and distribution systems, and surface and offside open drainage channels and facilities, as well as street lighting stanchions shall be permitted. The above subdivision is, in addition, subject to the terms of an agreement and to terms of an easement grant and declaration of restrictions in each case between the undersigned and the Detroit Edison Company and the Michigan Bell Telephone Company, which instruments may now or will hereafter be recorded in the office of the Register of deeds for Wayne County, and in each case relating to the installation and maintenance of underground electric and communication service and facilities, and which instruments are, by reference, incorporated herein.

Section 7. Fences. No fence, wall, hedge, shrubbery, or sign shall be erected, placed or altered on any lot nearer to the front street than the front building set-back line, or nearer to the side street on corner lots than the side building set-back line, and, provided further, that no fence more than forty-eight inches in height shall be constructed, except that solid fences or walls erected for the purpose of creating privacy for the occupant of a lot may be constructed to, but shall not exceed, seventy-two inches in height, and may be located only along real lot lines and side lot lines no closer than the rear of a building on such lot, and not beyond the side building set-back line on the side street in the case of a corner lot. Further provided, that fences in conformity with the requirements and zoning ordinances of the Charter Township of Canton with regardless to fences surrounding swimming pools may be constructed, regardless of any of the foregoing provisions.

Section 8. Sight Lines. No fence, wall, hedge or shrub Planting which obstructs sight lines at elevations between two and six feet above the roadway 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 from the intersection of the street lines, or in the case of a rounded property line, from the intersection of a street property line extended. The same sight line limitations shall apply to any lot within ten feet from the intersection of the street property line with the edge of a driveway or alley pavement. 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.

Section 9. Sales Office. Anything herein contained to the contrary notwithstanding, the Developer, its successors and assigns, it's or their agents, employees and sales representatives may use and occupy any lot or house built within the subdivision as a sales office for the handling of sales of lots and /or houses therein, or other lands in the Township of Canton owned by the undersigned, until all of the lots and /or houses to be built on said land shall have been sold, and further, may construct fences or otherwise in violation of Section 8 above in front of or alongside of model or display houses during such sales, provided, however, that at such time as the model or display house is sold any such fence or portion thereof otherwise in violation of Section 8 above shall be removed by the builder of such model or display house.

Section 10. Offensive Activities. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance to the neighborhood.

Section 11. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently.

Section 12. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent or signs of any size used by the builder or Developer to advertise the property during the construction and sales period.

Section 13. Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

Section 14. Disposition of Refuse. No lot shall be used and/or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Incinerators shall be of a type which minimizes offensive odors when in use.

ARTICLE IX.

FLOOD PLAIN AREA

Section 1. No filling or occupation of the flood plain area will be allowed without the approval of the Michigan Department of Natural Resources. The flood plain limits are defined as an elevation varying from 674.3 (U.S.G.S. Datum) at the upstream edge of the proposed subdivision to an elevation of 672.0 at the downstream edge of the proposed subdivision.

Section 2. All buildings used or capable of being used for residential purposes shall:

- (a) Have lower floors, excluding basements, a minimum of 1 foot higher than the elevation of the contour defining the flood plain limits.
- (b) Have openings into the basement not lower than the elevation of the contour defining the flood plain limits.
- (c) Have basement walls and floors below the elevation of the contour defining the flood plain limits, watertight and reinforced to withstand hydrostatic pressures from a water level equal to the elevation of the contour defining the flood plain limits.
- (d) Be equipped with a positive means of preventing sewer backup from sewer lines and drains which serve the building.
- (e) Be properly anchored to prevent flotation.

The restrictions herein imposed upon the flood plain area lots are hereby excluded from amendment, and from the time limitation set for the other restrictions and covenants herein contained, and shall be observed in perpetuity.

ARTICLE X.
GENERAL PROVISIONS

Section 1. Enforcement. The restrictions, conditions, covenants, reservations, liens and charges, now or hereafter imposed shall be enforced by the Association, which shall have the right to expend the Owner of any Lot in the Subdivision, or any one or more of said parties by any proceeding in law or equity. If the same are enforced by appropriate proceedings by any such Owner or Owners, such Owner or Owners, may be reimbursed by the Association for all or any part of the cost incurred. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any of these covenants or restrictions by judgment or court order shall in no way affect the validity of any of the other provisions or portions thereof, and the same shall remain in full force and effect.

Section 3. Terminology. The word "he" wherever used in this instrument shall be used as synonymous with the word. "she", "it", and "they", and the word "his" synonymous with the word "her", "its", and "their". The word "person" may refer to an individual, corporation, partnership or other legal entity.

Section 4. Duration. This Declaration and the covenant and restrictions herein created shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty years from the date this Declaration is recorded, after which time said covenants and restriction shall be automatically extended for successive persons of ten years, unless an instrument signed by the then Owners" or two-thirds or the Lots has" been recorded, agreeing to change said covenants and restrictions in whole or in part: provided, however, that no such agreement and instrument or change shall be effective unless made and recorded at least three years in advance of the effective date or such change, and unless written notice of proposed agreement and instrument or change is sent to every Owner at least ninety days in advance of any action taken; and provided further, that no such agreement and instrument, or change affecting in any way the Common Area(s) within the Properties shall be effective unless the prior consent thereto or the Charter Township of Canton, Wayne County, Michigan, by and through its Township Board shall have first been obtained.

Section 5. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, Postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

*Provided further that no such, agreement and instrument of change shall be effective with respect to the covenants and restrictions set forth in Article IX flood Plain Area, which covenants and restrictions notwithstanding anything to the contrary contained herein shall be observed in perpetuity.

IN WITNESS WHEREOF, the undersigned, being the Developer herein, has hereunto set its hand and seal this 3rd day of July, 1974.

In the presence of:

BERT L. SMOKLER & COMPANY, a Michigan corporation,

By /s/ Mandel L. Berman
Mandel L. Berman, President

/s/ John S. Blanchard
John S. Blanchard

/s/ Anthony Pulich
Anthony Pulich

STATE OF MICHIGAN)
) SS
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 3rd day of July, 1974, by Mandel L. Berman, President of BERT L. SMOKLER & COMPANY, a Michigan corporation, on behalf of the corporation.

/s/ Diana L. Harris
Diana L. Harris (acting)
Notary Public, Wayne County, Michigan
My Commission Expires: June 7, 1977

The foregoing DECLARATION OF COVENANTS AND RESTRICTIONS is hereby accepted and approved.

HUNTLEY HOMES, INC., a Michigan corporation.

By /s/ Sanford L. Perlman
Sanford L. Perlman

The foregoing instrument was acknowledged before me this day by Sanford L. Perlman, President of Huntley Homes, Inc., a Michigan corporation, on behalf of the corporation.

/s/ Gail M. Ozment
Gail M. Ozment
Notary Public, Oakland County, Michigan
My Commission Expires: March 22, 1978

When Recorded – Return to:

Bert L. Smokler & Company
Suite 950 Honeywell Building
17515 West Nine Mile Road
Southfield, Michigan 48175