

**OWNER INFORMATION BOOKLET**

**FOR**

**COUNTRY CREEK SUBDIVISION NO. 1**

**A RESIDENTIAL COMMUNITY  
LOCATED IN OAKLAND TOWNSHIP  
OAKLAND COUNTY, MICHIGAN**

**UPDATED: May, 2017**

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**AMENDED AND RESTATED DECLARATION OF EASEMENTS AND  
RESTRICTIONS AND AMENDED AND RESTATED BYLAWS  
COUNTRY CREEK SUBDIVISION NO 1**

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\$26.00 MISC RECORDING  
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LISA BROWN, CLERK/REGISTER OF DEEDS

## AMENDED AND RESTATED DECLARATION OF EASEMENTS AND RESTRICTIONS FOR THE COUNTRY CREEK SUBDIVISIONS

This Amended and Restated Declaration of Easements and Restrictions for the Country Creek Subdivisions (the "Amended and Restated Declaration") is made and executed this 15<sup>th</sup> day of May, 2017, by Country Creek Homeowners Association, a Michigan nonprofit corporation (the "Association").

The Association declares that the original Declaration of Easements and Restrictions for the Country Creek Subdivision No. 1, recorded in Liber 14653, Pages 481 et seq., the original Declaration of Easements and Restrictions for the Country Creek Subdivision No. 2, recorded in Liber 15279, Pages 688 et seq., the original Declaration of Easements and Restrictions for the Country Creek Subdivision No. 3, recorded in Liber 18408, Pages 566 et seq., and the original Declaration of Easements and Restrictions for the Country Creek Woods, recorded in Liber 15866, Pages 601 et seq., Oakland County Records, are hereby superseded by the recording of this Amended and Restated Declaration, although all said property shall remain subject to that certain Declaration of Easements and Restrictions for Country Creek Planned Unit Development, dated December 22, 1992 and recorded in Liber 13217, Pages 653 et seq., Oakland County Records, as previously amended. Accordingly, the real property described in Article II below is and shall be held, transferred, sold, conveyed, occupied, encumbered, leased, rented, improved, or in any other manner utilized, subject to the covenants, conditions, restrictions, uses, limitations, affirmative obligations, easements, charges and liens set forth in this Amended and Restated Declaration, all of which shall be deemed to run with such real property and which shall be a burden and a benefit to the Association, its successors and assigns, and any persons acquiring or owning an interest in such real property, their grantees, successors, heirs, executors, administrators and assigns.

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### ARTICLE I DEFINITIONS AND INTERPRETATION

**1.01 Definitions.** Certain terms are utilized not only in this Amended and Restated Declaration, but are or may be used in various other instruments such as, by way of example and not limitation, the Articles of Incorporation and any Rules and Regulations of the Association, and deeds, mortgages, liens, land contracts, easements and other instruments affecting the establishment or transfer of interests in the Subdivisions (as defined below). Wherever used in such documents or any other pertinent instruments, the terms set forth below shall be defined as follows:

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A. "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, as may be amended from time to time.

B. "Assessments" means the various forms of payment to the Association that are required to be made by Owners (defined below), including any interest, late fees, fines, costs and attorneys' fees incurred in collecting the same.

C. "Association" means Country Creek Homeowners Association, a Michigan nonprofit corporation of which all Owners are members, which corporation shall administer, operate and manage the Subdivisions and administer, operate, manage and maintain the Common Areas (defined below) located within the Subdivisions in accordance with all applicable laws and the Subdivision Documents (defined below). Any action required of or permitted to the Association shall be exercisable by its Board of Directors unless specifically reserved to its members by the Subdivision Documents or Michigan law.

D. "Board" or "Board of Directors" means the Board of Directors of the Association, from time to time.

E. "Bylaws" means the Amended and Restated Bylaws of the Association attached as Exhibit A and made a part of this Amended and Restated Declaration, and as may be amended from time to time.

F. "Common Areas" mean those areas of land within the Subdivisions designated as being for the beneficial use and enjoyment of the Owners, including any facilities or other improvements located thereon, the same being considered to be owned by the Association on behalf of the Owners. As of the recording of this Amended and Restated Declaration, the Common Areas consist of those areas designated on Exhibit B attached hereto and made a part hereof. Title to the Common Areas is vested in the Association subject to the rights and easement of enjoyment in and to such Common Areas by the Owners.

G. "Conservation Areas" shall mean those areas of land within the Subdivisions encumbered by private easements for storm drainage and conservation of wetlands as delineated on the Plats.

H. "Declarant" refers to Eagle Creek Master Limited Partnership, its successors and assigns.

I. "Declaration" or "Amended and Restated Declaration" means this instrument and all exhibits attached hereto, as the same may be amended from time to time.

J. "Dwelling" or "Residence" shall mean and refer to any single family residence constructed on a Lot.

K. "Lot" means any Lot on the recorded Plats.

L. "Master Declaration" means the Declaration of Easements and

Restrictions for Country Creek Planned Unit Development, dated December 22, 1992 and recorded in Liber 13217, Pages 653 et seq., Oakland County Records, as amended from time to time, to which this Declaration and all Property subject hereto will be subject.

M. "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot subject to this Amended and Restated Declaration. Both land contract vendees and vendors shall be considered Owners, and shall be jointly and severally liable for all obligations and responsibilities of Owners under this Amended and Restated Declaration. Lessees are not considered Owners. Lessors are the Owners and are responsible for any and all actions of their tenants and guests.

N. "Plats" mean one or more of the Plats attached as Exhibit C and made a part hereof, which individually and collectively cover the Property, as recorded in Oakland County Records.

O. "Property" means the property described in Exhibit C, together with the improvements and additions thereto.

P. "Subdivisions" means all subdivisions listed in Exhibit C and covered by the Plats.

Q. "Subdivision Documents" means and includes the Master Declaration, this Amended and Restated Declaration, the Bylaws, the Plats, the Articles of Incorporation and any Rules and Regulations of the Association.

**1.02 Interpretation.** The Board shall interpret the provisions of this Amended and Restated Declaration as well as those of the Articles of Incorporation, Bylaws and any Rules and Regulations of the Association. Any such interpretation of the Board that is rendered in good faith shall be final, binding and conclusive if the Board receives a written opinion of the Association's legal counsel, or the counsel having drafted this Amended and Restated Declaration or other applicable documents, that the interpretation is not unreasonable, which opinion may be rendered before or after the interpretation is adopted by the Board. Notwithstanding any rule of law to the contrary, the provisions of this Amended and Restated Declaration, the Articles of Incorporation, the Bylaws and any Rules and Regulations of the Association shall be liberally construed so as to effectuate the purposes expressed herein with respect to the efficient operation of the Association and the Property, the preservation of the values of the Lots and Dwellings and the protection of Association's rights, benefits and privileges contemplated herein; all subject however to the terms of the Master Declaration which shall be deemed supplemented by the provisions hereof..

## ARTICLE II

### PROPERTY SUBJECT TO THIS AMENDED AND RESTATED DECLARATION

**2.01 Legal Description.** The Property that is and shall be held, transferred, sold, conveyed and occupied subject to this Amended and Restated Declaration is located in the of Oakland Township, Oakland County, Michigan, and is legally described in Exhibit C.

**2.02 Covenants Running with the Land.** All Owners, by acceptance of a deed to or other conveyance of their Lots, shall be deemed to have automatically consented to the terms, rights and obligations set forth in this Amended and Restated Declaration, the Articles of Incorporation, the Bylaws, the Master Declaration and any Rules and Regulations of the Association and the terms hereof shall be considered covenants running with the land comprising the Property.

**2.03 Title to Common Areas.** Title to the Common Areas is vested in the Association subject to each Owner's easement of enjoyment in and to such Common Areas. Such easement of enjoyment shall not be personal, but shall be appurtenant to the Lots and shall pass with the title to the Lots whether or not specifically set forth in the deeds or instruments conveying the Lots.

### **ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

**3.01 Membership.** Every person or entity who is a record Owner of a fee interest in any Lot shall be a mandatory member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Notwithstanding anything to the contrary herein, any person or entity who holds such interest merely as security for the performance of an obligation shall not be a member of the Association.

**3.02 Voting Rights.** The voting rights of Owners are as provided herein and in the Bylaws and Articles of Incorporation. Each Owner shall be entitled to one vote for each Lot owned, provided that such Owner is in "good standing." As used in this Amended and Restated Declaration and in the Subdivision Documents, "good standing" shall mean that the Owner is not in default in the payment of any Assessment or is not otherwise in default in any of the terms, restrictions, covenants or conditions contained in the Subdivision Documents. In the case of any Lot owned jointly by more than one Owner, the voting rights appurtenant to that Lot may be exercised only jointly as a single vote. When an entity or more than one person holds an ownership interest in a Lot, such Owners shall file a written notice with the Association designating the individual representative who shall vote at meetings of the Association and receive all notices and other communications from the Association on behalf of such Owners. All Owners must sign and date such notice, which shall state the name and address of the individual representative designated, the number of the Lots owned by the Owners, and the name and address of each person, firm, corporation, limited liability company, partnership, association, trust or other entity who are the Owners. The Owners may change the designated representative at any time by filing a new notice in the manner provided herein. The Owners shall determine how they exercise their vote for such Lot, but in no event shall the Owners cast more than one vote with respect to any one Lot. Except as otherwise set forth herein or in the other Subdivision Documents, when reference is made to a majority or specific percentage of Owners, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Owners in good standing. The time having passed for the existence of two classes of membership as originally provided in the Master Declaration, there shall only be one class of members of the Association.

**3.03 Governing Documents.** The Association shall be organized, governed and operated in accordance with its Articles of Incorporation, Bylaws and any Association Rules and

Regulations, all of which shall be consistent with the provisions and purposes of this Amended and Restated Declaration and the Master Declaration.

**3.04 Directors.** The Association's Board of Directors is exclusively vested with the right to manage the affairs of the Association.

#### **ARTICLE IV COMMON AREAS AND EASEMENTS**

**4.01 Owners' Easements.** Each Owner, and each Owner's occupants, lessees, guests and invitees, shall have a non-exclusive and perpetual easement over and upon the Common Areas for the intended use and enjoyment thereof in common with all other Owners and their respective occupants, lessees, guests and invitees, subject to the provisions of the Master Declaration, this Amended and Restated Declaration and the Subdivision Documents including, without limitation, the following:

A. The right and duty of the Association to levy Assessments against each Lot for the purposes set forth in Article V and for the operation of the Subdivisions, Common Areas within the Subdivisions and the Association in compliance with the provisions of the Master Declaration, this Amended and Restated Declaration and the other Subdivision Documents;

B. The right of the Association to suspend each Owner's right to use the Common Areas for any period during which such Owner is not in good standing;

C. The right of the Association to adopt at any time and enforce Rules and Regulations governing the use of the Common Areas for which it is responsible, the rights and responsibilities of the Owners and the Association with respect to the Subdivisions or the manner of operation of the Association or the Subdivisions;

D. The right of the Association to have, grant and use general and specific easements over, under and through the Common Areas for which it is responsible; and

E. The right of the Association, authorized by a two-thirds (2/3<sup>rd</sup>s) affirmative vote of all Owners in good standing, to dedicate or convey portions of the Common Areas for which it is responsible to any public or quasi-public agency, authority or utility under such terms as the Association deems appropriate, and to which such dedication or contract all Owners by the acceptance of the deeds to their Lots shall be deemed to have consented.

**4.02 Use and Maintenance of the Common Areas.** The Common Areas may be used for all uses permitted by the Master Declaration or this Declaration.

**4.03 Country Creek County Drain.** A perpetual and permanent easement has been granted in favor of the Oakland County Drain Commissioner, the County of Oakland and the Country Creek Drainage District (collectively referred to as "Grantee") and Grantees' successors, assigns and transferees in, over, under and through each of the areas denoted "permanent easement for storm drain" on the Plats, as amended, which easement may not be

amended or revoked except with the written approval of Grantee. The easement conveyed grants the following rights:

A. The easement for the Country Creek County Drain shall be for the purposes of developing, establishing, constructing, repairing, maintaining, deepening, cleaning, widening and performing any associated construction activities and grading in connection with any type of drainage facilities or storm drains in any size, form, shape or capacity;

B. The Grantee shall have the right to sell, assign, transfer or convey this easements to any other governmental unit;

C. No Owner in the Subdivisions shall build or convey to others any permission to build any permanent structures on the said easement;

D. No Owner in the Subdivisions shall build or place on the areas covered by the easement any other type of structure, fixture or object or engage in any activity or take any action, or convey any property interest or right that would in any way either actually or threatened to impair, obstruct or adversely affect the rights of Grantee under the said easement;

E. Grantee and its agents, contractors and designated representatives shall have a right of entry on, and gain access to the easement property; and

F. All Owners in the Subdivisions release Grantee and its successors, assigns or transferees from any and all claims for damages in any way arising from or incident to the construction and maintenance of a drain or sewer otherwise arising from or incident to the exercise by Grantee of its rights under the said easement, and all Owners covenant not to sue Grantee for any such damages.

The rights granted to the County of Oakland, the Oakland County Drain Commissioner and the Country Creek Drainage District under this Section may not be amended without the express written consent of Grantee. Any purported amendments or modification of the rights granted under this Section shall be void and without legal effect unless agreed to in writing by Grantee, its successors or assigns.

**4.04 Conservation Areas and Wetlands.** Declarant dedicates and declares for the benefit of the Owners, their successors and assigns a permanent easement for conservation or wetlands in each area denoted "permanent private easement for conservation of wetlands" on the Plats. All areas reserved for the conservation of wetlands shall be maintained and preserved in substantially their natural state. There shall be no change in grade, no change in vegetation, no filling or dredging, and no excavation in conservation areas for wetlands without first obtaining all applicable wetland permits from the Michigan Department of Natural Resources and the explicitly written authorization of the Country Creek Homeowners Association. Country Creek Homeowners Association shall have the right to enter each area subject to an easement for conservation of wetlands to preserve and maintain the Easement area. All areas reserved for the conservation of wetlands shall be maintained in accordance with all applicable laws and regulations. Notwithstanding any other provision of this Declaration, Grantor reserves the right

to grant easements within the conservation areas for the installation, repair and maintenance of water mains, sewers, drainage courses and other public utilities, subject to the approval of Oakland Township, not to be unreasonably delayed or withheld, provided that such utilities shall be installed in such a manner as to minimize damage to the natural features of conservation areas, and shall be installed subject to all lawful conditions imposed.

**4.05 Park Areas.** This Declaration is intended to supplement the Declaration of Easements and Restrictions for Country Creek Planned Unit Development recorded December 29, 1992 at Liber 13217, Page 653, Oakland County Records (the "Master Declaration"). By way of illustration and not of limitation, the Park Areas are all hereby dedicated as Common Areas as defined in the Master Declaration, and the easements for conservation of wetlands shown on the Plats are "Wetlands and Water Courses" as defined in the Master Declaration. All such Park Areas and easements for conservation of wetlands shall be subject to the provisions of the Master Declaration, as applicable. No provision of this Declaration is intended to limit or impair the easements, declarations, covenants and restrictions of the Master Declaration.

That part of Country Creek Park West described in the attached Exhibit D shall be used solely for recreation purposes, such as hiking, bicycling, nature study and similar pursuits in keeping with the nature of the area, and no structures or utilities (including, without limitation, sanitary sewer lines, storm sewer lines, water lines, gas lines, electric lines, telephone lines, cable television lines or other utilities) shall be installed at, within or above the real estate described on the attached Exhibit D.

**4.06 Storm Water Easements.** Declarant reserved a perpetual and permanent easement to drain storm water from the real estate described in Exhibit E attached onto all storm water retention facilities which now exist or may hereafter be constructed upon Country Creek Park North. This easement is expressly for the benefit of Declarant, all future owners of any lot in any subdivision constructed upon the property described in Exhibit B, the County of Oakland, the Oakland County Drain Commissioner and the Country Creek Drainage District. The rights granted to the County of Oakland, the Oakland County Drain Commissioner and/or the Country Creek Drainage District, their successors and assigns under this Section may not be amended or withdrawn without the express written consent of the County of Oakland, the Oakland County Drain Commissioner and/or the Country Creek Drainage District, as applicable. Any reported amendment or modification of the rights granted under this Section shall be void and without legal effect unless agreed to in writing by the County of Oakland, the Oakland County Drain Commissioner or the Country Creek Drainage District, as applicable.

Declarant also reserved a perpetual and permanent easement to drain storm water from the real estate comprising Country Creek Subdivision No. 2 onto all storm water retention facilities which now exist or may hereafter be constructed upon Deer Park, Deer Park South and the easement for storm drain between Lots 124 and 125, 125 and 126 and 126 and 127, as amended. This easement is expressly for the benefit of Declarant, all owners of any lot in Country Creek Subdivision No. 2, the County of Oakland, the Oakland County Drain Commissioner and the Country Creek Drainage District No. 2. The rights granted to the County of Oakland, the Oakland County Drain Commissioner and/or the Country Creek Drainage District No. 2, their successors and assigns under this Section may not be amended or withdrawn

without the express written consent of the County of Oakland, the Oakland County Drain Commissioner and/or the Country Creek Drainage District No. 2, as applicable. Any reported amendment or modification of the rights granted under this Section shall be void and without legal effect unless agreed to in writing by the County of Oakland, the Oakland County Drain Commissioner or the Country Creek Drainage District No. 2, as applicable.

**4.07 Other Easements Affecting the Subdivisions.** Declarant declared ten (10') foot wide private easements for public utilities within the areas shown as public utility easements on the Plat, twelve (12') foot wide private easements for water mains as shown on the Plats; four (4') foot wide, five (5') foot wide, ten (10') foot wide, fifteen (15') foot wide and twenty (20') foot wide private easements for sanitary sewer as shown on the Plats; and private easements for storm drainage as shown on the Plat. The use of all or part of such easements may at any time or times hereafter be granted or assigned by Declarant, the Association or its successors or assigns to any persons, firm, corporation, governmental unit or agency which furnishes all or any of such utilities. This easement for public utilities shall include the right on, over and under the ground within the easement to erect, maintain and use electric, telephone and television poles, wires, cables, conduits, water mains and other suitable equipment for the conveyance and use of electricity, telephone, television, gas, sewer, water or other public conveniences or utilities in, on or over the ten (10') foot wide private easement for public utilities as shown on the Plats. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil or take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by any licensees of Declarant, but this reservation shall not be considered an obligation of Declarant to provide or maintain any such utility or service. No buildings may be constructed or maintained over or on any of the easements described in this Section; provided, however, that after the aforementioned utilities have been installed, plating, fencing (where permitted) or other Lot improvements (excluding buildings and other permanent structures) shall be allowed, so long as they do not violate the provisions of this Declaration and do not interfere with, obstruct, hinder or impair the drainage plan of the Subdivision, and so long as access be granted, without charge or liability for damages, for the installation, maintenance, repair, replacement, modification and/or removal of the utilities and/or additional facilities installed within the easement for public utilities.

**4.08 Association Easement to Enforce Maintenance Standards.** The Association shall have such easements over, under, across and through all Lots (but not the interior of Residences constructed thereon) as may be necessary to fulfill any responsibilities of maintenance, repair, decoration, replacement or upkeep which it or the Lot Owners are required or permitted to perform under this Declaration or by law, or to respond to any emergency or common need of the Association. It is a matter of concern that an Owner may fail to properly maintain his Lot, including the exterior of any Residence constructed thereon, in a proper manner and in accordance with the standards set forth in this Declaration and any Rules and Regulations promulgated by the Association. Therefore, in the event an Owner fails, as required by this Declaration or any Rules and Regulations of the Association, to properly and adequately maintain, decorate, repair, replace or otherwise keep his Lot, including the exterior of any Residence constructed thereon, the Association shall have the right, and all necessary easements in furtherance thereof, (but not the obligation) to take whatever action or actions it deems

desirable to so maintain, decorate, repair or replace the item in question, all at the expense of the Owner of the Lot. The Association shall not be liable to the Owner of any Lot or any other person, in trespass or in any other form of action, for the exercise of rights pursuant to the provisions of this Section or any other provision of the Declaration which grant such easements, rights of entry or other means of access. Failure of the Association to take any such action shall not be deemed a waiver of the Association's right to take any such action at a future time. All costs incurred by the Association in performing any responsibilities which are required, in the first instance to be borne by any Owner, shall be assessed against such Owner and shall be due and payable within 30 days of invoicing, in accordance with Article V hereof and the provisions for assessment contained in the Master Declaration; further, the lien for non-payment shall attach as in all cases of assessments, and such assessments may be enforced by the use of all means available to the Association under this Declaration, the Master Declaration and by law for the collection of assessments including, without limitation, legal action, foreclosure of the lien securing payment and imposition of fines.

**4.09 Easements Appurtenant.** The easements provided in this Article shall be appurtenant to and shall pass with the title to each Lot, but shall not be deemed to grant or convey any ownership interest in any Common Areas subject thereto.

**4.10 Right to Grant Easements.** The Board of Directors shall have the right, without the need to obtain consent of any Owner, to grant easements through the Common Areas for the purpose of causing the installation of any utility lines, television, cable, drainage facilities or any other improvements or utilities which would serve the residents of the Subdivisions.

**4.11 Public Easements.** Fire, police, health and sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas in the performance of their respective duties.

## **ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS**

**5.01 Creation of the Lien and Personal Obligation for Assessments.** Each Owner, by acceptance of a deed or land contract vendee's interest to their Lot or other conveyance thereof, whether or not it shall be so expressed in such deed, shall be deemed to covenant and agree to pay to the Association all general, additional and special Assessments for the operation of the Association, maintenance of the Subdivisions and the Common Areas as set forth in the Subdivision Documents, and for the payment of such other expenses allocated or assessed to or through the Association. All such Assessments, together with interest, late fees, fines, costs, attorneys' fees incurred in the collection of such Assessments (including attorneys' fees and costs incurred incidental to any bankruptcy proceedings filed by any delinquent Owner or probate or estate matters, including monitoring any payments made by the bankruptcy trustee or the probate court or estate to pay any delinquency, or attorneys' fees and costs incurred incidental to any State or Federal Court proceeding filed by an Owner) and advances for taxes or other liens or costs paid by the Association to protect its rights shall be a charge on the Owner's Lot and shall be a continuing lien upon the Lot against which each such Assessment is made. Such Assessments shall also be the personal obligation of the person who is the Owner of such Lot at the time the Assessment fell due and, except as provided in Section 5.09 below, and all

subsequent Owners until paid, and shall accrue to the benefit of the Association.

**5.02 Purpose of General Assessments.** Except as otherwise provided herein or in the Master Declaration, the Association may use the assessments levied under this Article V for the purpose of: (i) promoting the recreation, health, welfare and safety of the residents of the Subdivisions, including the holding of social events; (ii) improving, landscaping and maintaining the Common Areas and any improvements located thereon; (iii) providing services and facilities for the benefit of residents of the Subdivisions, including community wide refuse services as an Association expense; (iv) maintaining, beautifying and improving the streets, walkways, rights-of-way, entrance ways and other common improvements within the Subdivisions, even if dedicated to the public (road maintenance will be limited to snow and ice removal and necessary patching); (v) enforcing the Subdivision Documents; and (vi) discharging any taxes, insurance premiums and mortgage installments relating to the Common Areas and any improvements thereon.

**5.03 Rates of Assessments; General Assessment.** All general, additional and special assessments shall be made against each Lot equally. The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year and such budget shall project all expenses for the forthcoming year that may be required for the proper operation, management and maintenance of the Subdivisions, the Common Areas and the Association, including a reasonable allowance for contingencies and reserves. Upon adoption of an annual budget by the Board of Directors, copies of the budget shall be delivered to each Owner and the assessment for the year shall be established based upon said budget, although the failure to deliver a copy of the budget to each Owner shall not affect or in any way diminish the liability of any Owner for any existing or future assessments.

**5.04 Additional Assessments.** The Board of Directors shall have the authority to increase the general assessment or to levy such additional assessments as it shall deem to be necessary in its sole discretion, provided that the same shall be required for only the following: (i) to meet deficits incurred or anticipated because current assessments are insufficient to pay the costs of operation and maintenance as provided in Section 5.02; (ii) to provide replacements of existing Common Areas; (iii) to provide additions to the Common Areas at a total annual cost not exceeding five percent (5%) of the Association's annual operating budget; or (iv) for any emergencies.

**5.05 Special Assessments.** Special assessments, in addition to those described in Sections 5.03 and 5.04 above, may be made by the Board of Directors from time to time if approved by the Owners as provided herein, to meet other requirements of the Association, including, but not limited to: (i) providing additions to the Common Areas at a total cost exceeding five percent (5%) of the Association's annual operating budget; (ii) assessments to purchase a Lot upon foreclosure of the lien for assessments described herein; or (iii) assessments for any other appropriate purpose not elsewhere described. Special assessments as provided for by this subsection shall not be levied without the prior approval of a majority of the Owners in good standing.

**5.06 Date of Commencement of Annual Assessments; Due Dates; Exemptions.** The general annual assessment provided for in this Article shall be imposed for the year beginning April 1 and ending March 31. The regular annual assessments shall be payable in annual or such other installments as determined by the Board of Directors, commencing with acceptance of a deed to or a land contract vendee's interest in a Lot, or with the acquisition of fee simple title to a Lot by any other means. The Board of Directors shall fix the due date of the general and any additional or special assessment by resolution. All Common Areas and all other property exempt from State and/or local taxation and dedicated for public use shall be exempt from assessments hereunder.

**5.07 Effect of Non-Payment of Assessment; Remedies of the Association.** The payment of an assessment shall be in default if such assessment, or any part thereof, is not paid to the Association in full on or before the due date for such payment, which shall be the first (1<sup>st</sup>) day of each fiscal year or such other date as may be established from time to time by the Board of Directors for any assessment. Assessments in default shall bear interest at the highest rate allowed by law until paid in full. In addition, all assessments, or installments thereof, which remain unpaid as of thirty (30) days after the due date (based on the postmark date) shall incur a uniform late charge of one and one half percent (1.5%) of the assessment not paid, but in no event less than \$25.00 per month for each month not paid, to compensate the Association for administrative costs incurred as a result of the delinquency. All returned check fees will be charged to the Owner in the amount of not less than \$35.00. The Association has the right to charge a separate late fee on the uncollectable check amount. The Board of Directors may revise the uniform late charges, and may levy additional late fees for special and additional assessments, without the necessity of amending this Amended and Restated Declaration. The Association may also accelerate any unpaid installments for the fiscal year remaining unpaid and those of any subsequent fiscal year into which the delinquency continues, which shall become immediately due and payable in full. The Association may bring an action at law against the Owners personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Lot on which the Assessments are unpaid, may foreclose the lien against the Lot on which the assessments are unpaid, or may pursue one or more of such remedies at the same time or successively. In addition to the rights of collection of assessments stated in this Section, any and all persons acquiring title to or an interest in a Lot as to which the assessment is delinquent, including without limitation persons acquiring title by operation of law and by judicial sales, shall not be entitled to occupancy of such Lot or the enjoyment of the Common Areas until such time as all unpaid and delinquent assessments due and owing from the selling Owner have been fully paid; provided, however, that the provisions of this sentence shall not be applicable to mortgagees. In addition to other remedies, the voting rights of any Owner as a member of the Association whose assessments or charges of any kind are past due shall be suspended, as will the Owner's rights to run for or serve as an officer or director of the Association. Payments on account of installments of assessments in default shall be applied as follows: first, to costs of collection and enforcement of payment, including attorney's fees; second, to any interest charges, fines and late fees on such installments; and third, to installments in default in order of their due dates. An Owner selling a Lot shall not be entitled to any refund whatsoever from the Association with respect to any reserve account or other asset of the Association.

The provisions of Michigan law pertaining to foreclosure of mortgages by judicial action and by advertisement, as the same may be amended from time to time, are incorporated herein by reference for the purposes of establishing the alternative procedures to be followed in lien foreclosure actions and the rights and obligation of the Association and other parties to such actions. Further, each Owner and every other person who from time to time has any interest in the Property, shall be deemed to have authorized and empowered the Association to sell or to cause to be sold the Lot and improvements thereon with respect to which assessments are delinquent and to receive, hold and distribute the proceeds of such sale in accordance with the priorities established by applicable law. Each Owner acknowledges that at the time of acquiring title to such Lot, they were notified of the provisions of this Section and that they voluntarily, intelligently and knowingly waived notice of any proceedings brought by the Association to foreclose by advertisement the lien for nonpayment of assessments and a hearing on the same prior to the sale of the subject Lot. The Association shall have such other remedies for collection and enforcement of assessments as may be permitted by applicable law. All remedies are intended to be, and shall be, cumulative.

**5.08 Waiver of Use or Abandonment of Lot.** No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Areas, abandonment of the right to use the Common Areas, or abandonment of their Lot.

**5.09 Subordination of the Lien.** Except for claims evidenced by a lien recorded prior to the recordation of a first mortgage, the lien of the assessments provided for in this Article shall be subordinate to the lien of any first mortgage; provided, however, that any such mortgage lender when in possession or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any assessment, or part thereof, attributable to the period commencing on the date of the foreclosure sale (or conveyance in lieu of foreclosure).

**5.10 Expenses of Collection.** All expenses incurred in collecting unpaid Assessments, including interests, fines, costs, actual attorneys' fees (not limited to statutory fees and including attorneys' fees and costs incurred incidental to any bankruptcy proceedings filed by the delinquent Owner or probate or estate matters, including monitoring any payments made by the bankruptcy trustee or the probate court or estate to pay any delinquency, or attorneys' fees and costs incurred incidental to any State or Federal Court proceeding filed by the Owner) and advances for taxes or other liens or costs paid by the Association to protect its lien, shall be chargeable to the Owner in default and shall be secured by the lien on their Lot.

**5.11 Certificate with Respect to Assessments.** Upon the written request of any Owner, the Association shall furnish, within five (5) business days, a written certificate regarding the status of any assessments or other charges levied against the Owner's Lot. Any such certificate, when properly issued by the Association, shall be conclusive and binding with regard to the status of the assessments as between the Association and any bona fide purchaser of the Lot described in the certificate and the lender who has taken a lien on the Lot as security for the repayment of a loan.

**ARTICLE VI**  
**SINGLE FAMILY RESIDENTIAL BUILDING AND USE RESTRICTIONS**

**6.01 Master Declaration.** The restrictions contained in this Article VI shall be in addition to the architectural restrictions contained in the Master Declaration. The Master Declaration shall be construed, insofar as possible, to be compatible with this Declaration. In the event of any conflict, the terms of this Declaration shall control. Nothing in this Article VI shall relieve an Owner from complying with the Ordinances of the Township.

**6.02 Use of Lots.** All Lots shall only be used for single-family residential purposes (as defined by Ordinances) only and no building shall be erected, re-erected, placed or maintained or permitted to remain on any Lot except one (1) single family private Dwelling and its appurtenant buildings as more fully set forth herein. No Owner shall carry on any business enterprise or commercial activity within the Subdivisions or upon their Lot, specifically including for profit day care, adult foster care, nursing facilities, transitional housing and similar enterprises, except that Owners shall be allowed to have home offices in their Dwellings, provided the same (i) do not involve additional pedestrian or vehicular traffic by customers, users or beneficiaries of the services being performed and/or congestion within the Subdivisions, (ii) do not utilize or involve the presence of any employees upon their Lots other than the Owners or occupants, (iii) do not unreasonably disturb other Owners, (iv) do not involve additional expense to the Association, (v) do not violate any other provision or restriction contained in this Amended and Restated Declaration, (vi) do not involve the storage of bulk goods for resale, and (vii) do not constitute a violation of any municipal ordinances or regulations. No Lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, and the same shall not be kept except in sanitary containers properly concealed from public view.

**6.03 Character and Size of Buildings.** It is the intention and purpose of this Amended and Restated Declaration to ensure that all Dwellings are of a quality, design, workmanship and materials that the Association has approved. All Dwellings shall be constructed in accordance with the applicable governmental building codes, ordinances and regulations and with such further standards as set forth in this Amended and Restated Declaration. The Architectural Control provisions of the Master Declaration shall apply, however, all such rights will be exercised by the Association. Subject to specific restrictions related to specific Subdivisions as set forth below, no Dwelling shall to exceed two and on-half (2.5) stories in height and all Dwellings shall have an attached private side entry garage for the sole use of the Owner or occupants of the Dwelling. No building shall exceed thirty-five (35) feet in height from ground level, measured from the lowest ground level adjacent to the home to the peak of the highest roof. The minimum square footage of floor area of a Dwelling, exclusive of basements, unfinished attics, attached garages, steps, opened and/or closed porches (except if the roofline of an enclosed porch forms an integral part of the roofline of the main Dwelling), and similar facilities, is:

A. Country Creek Subdivision No. 1. A minimum of one thousand nine hundred (1,900) square feet for a one story ranch; for multiple stories, the entry level shall

contain a minimum of one thousand two hundred fifty (1,250) square feet and the entire Dwelling shall contain a minimum of two thousand five hundred (2,500) square feet.

B. Country Creek Subdivision No. 2. A minimum of one thousand nine hundred (1,900) square feet for a one story ranch; for multiple stories, the entry level shall contain a minimum of one thousand two hundred fifty (1,250) square feet and the entire Dwelling shall contain a minimum of two thousand five hundred (2,500) square feet.

C. Country Creek Subdivision No. 3. A minimum of one thousand seven hundred (1,700) square feet for a one story ranch; for multiple stories, the entry level shall contain a minimum of one thousand two hundred fifty (1,250) square feet and the entire Dwelling shall contain a minimum of two thousand four hundred (2,400) square feet.

D. Woods of Country Creek Subdivision. A minimum of two thousand five hundred (2,400) square feet for a one story ranch; for multiple stories, the entry level shall contain a minimum of one thousand eight hundred (1,800) square feet and the entire Dwelling shall contain a minimum of three thousand (3,000) square feet.

**6.04 Building Location and Lot Size.** The location of all buildings and structures on each Lot shall be in accordance with Township Ordinances. The minimum size of each Lot shall be the Lot size as established on the applicable Plat. In the event more than one Lot, or part of a Lot, is developed as a single Lot (and except as to the obligation of each Owner for any assessments made against each separate Lot), all restrictions set forth in this Amended and Restated Declaration shall apply to such resulting Lot in the same manner as to any single Lot. The following minimum Lot width requirements shall apply:

A. Country Creek Subdivision No. 1. The minimum dwelling width shall be forty-six (46) feet, including attached garage. If grade, soil or other physical conditions pertaining to the Lot render such work impractical or undesirable in the Association's judgment, The Association may (but is not obligated to) permit the construction of a dwelling having a width of less than forty-six (46) feet. In the event a dwelling fronts on two streets, the side on which the main entrance is located must be a minimum of forty-six (46) feet wide.

B. Country Creek Subdivision No. 2. The minimum dwelling width shall be forty-six (46) feet, including attached garage. If grade, soil or other physical conditions pertaining to the Lot render such work impractical or undesirable in the Association's judgment, The Association may (but is not obligated to) permit the construction of a dwelling having a width of less than forty-six (46) feet. In the event a dwelling fronts on two streets, the side on which the main entrance is located must be a minimum of forty-six (46) feet wide.

C. Country Creek Subdivision No. 3. The minimum dwelling width shall be forty-five (45) feet, including attached garage. If grade, soil or other physical conditions pertaining to the Lot render such work impractical or undesirable in the Association's judgment, The Association may (but is not obligated to) permit the construction of a dwelling having a width of less than forty-five (45) feet. In the event a dwelling fronts on two streets, the side on which the main entrance is located must be a minimum of forty-five (45) feet wide.

D. Woods of Country Creek Subdivision. The minimum dwelling width shall be sixty (60) feet, including attached garage. If grade, soil or other physical conditions pertaining to the Lot render such work impractical or undesirable in the Association's judgment, The Association may (but is not obligated to) permit the construction of a dwelling having a width of less than sixty (60) feet. In the event a dwelling fronts on two streets, the side on which the main entrance is located must be a minimum of sixty (60) feet wide.

**6.05 Trees.** No trees measuring six (6) inches or more in diameter at ground level may be removed without the written approval of Association. Prior to commencement of construction, Owner shall submit to Association, for its written approval, a plan for the preservation of trees in connection with the construction process. It shall be the responsibility of each Owner to maintain and preserve all trees measuring six (6) inches or more in diameter at ground level on their Lot, which responsibility includes welling trees if necessary. In the event of any cutting of trees in violation of this Section, the Owner may, in addition to any other remedy permitted herein or under statutory or common law, be required to replace improperly cut or removed trees with healthy native trees and in locations, all as acceptable to Association, having an aggregate diameter at ground level equal to the aggregate diameter of all trees which were improperly cut or removed.

**6.06 Basketball Backboards.** Owners shall obtain the Association's written approval as to the type, style and location of all basketball backboards. To be approved, basketball backboards must be located as unobtrusively as possible rearward of the front elevation of the dwelling and may not be visible from the street. Owners must mount all backboards on poles that are black in color. Backboards must be made of clear, uncolored lucite without graphics. The Association may, in its discretion, require landscaping to screen the view of the basketball backboard or relating playing surface from the roadway or adjacent Lots.

**6.07 Lawn Ornaments.** Owners shall obtain the Association's written approval before erecting any lawn ornament upon any Lot. Any application for Association's consent shall be accompanied by detailed drawings showing the size, appearance and finish of the proposed lawn ornament as well as the proposed location of the lawn ornament on the Lot.

**6.08 Other Building Restrictions Applicable to Country Creek Subdivision No. 1.** The following architectural restrictions shall apply to the Country Creek Subdivision No. 1:

A. No residential dwelling within Country Creek Subdivision No. 1 shall have its main entrance facing Country Creek Drive.

B. No two adjacent residential dwellings within Country Creek Subdivision No. 1 visible from Silver Bell Road shall have elevations which are visible from Silver Bell Road that are the same or substantially the same.

C. All driveways shall be paved with concrete or pavers.

**6.09 Other Building Restrictions Applicable to Country Creek Subdivision No. 2.**

The following architectural restriction shall apply to the Country Creek Subdivision No. 2: all driveways shall be paved with concrete or pavers.

**6.10 Other Building Restrictions Applicable to Country Creek Subdivision No. 3.**

The following architectural restrictions shall apply to the Country Creek Subdivision No. 3:

A. No residential dwelling within the Subdivision shall have its main entrance facing Country Crossing Road.

B. The exterior of the front of all buildings must be primarily brick or stone (but no yellow or white brick shall be allowed). No aluminum siding or metal windows may be used in any dwelling, building or other structure.

C. All driveways shall be paved with concrete or pavers.

**6.11 Other Building Restrictions Applicable to the Woods of Country Creek Subdivision.** The following architectural restrictions shall apply to the Woods of Country Creek Subdivision:

A. Any garage erected within the Subdivision shall be a side entrance, three car garage for the sole use of the Owner or occupant of the Lot. No front entrance garages shall be erected or maintained, and all garages shall be attached. Association shall have the sole and exclusive authority to determine what constitutes a front entrance garage. In the event that a dwelling fronts on two streets, the garage doors may not front on either street.

B. The exterior of the front of all buildings must be primarily brick or stone (but no yellow or white brick shall be allowed). The sides and rear of each dwelling shall be brick to the bottom of the second floor. No aluminum or vinyl siding or metal windows may be used in any dwelling, building or other structure.

C. All driveways shall be paved with asphalt at the date of occupancy or, if occupancy occurs at a time when the local asphalt plants are closed, any asphalt driveway shall be completed in within 30 days of the first date the local asphalt plant opens. Owners may utilize pavers to accent their asphalt driveways but only upon the Association's prior written approval.

D. All chimneys intended for live fires shall be lined with fire resistant materials. Prefabricated chimneys may be utilized if they are installed on the outside of the dwelling and are finished with brick from the foundation for their entire height. Otherwise, chimneys must have flues lined through the entire height with standard clay lining. Direct venting fireplaces which do not require a chimney may only be installed or maintained within a residence upon a Lot with venting that penetrates a rear or side wall on the first floor. No such direct vented fireplace may be installed with venting which is visible from the street or which vents above the first floor. All vents must be painted the same color as the exterior of the wall on which they are installed and must be screened by landscaping approved by Association to be as unobtrusive as possible and not to be visible from adjacent Lots.

E. No two dwellings within the Subdivision shall have identical front exterior elevations. The decision of Association as to what constitutes an identical front exterior elevation shall be final.

**6.12 Owner Maintenance of Lot, Dwelling and Appurtenant Structures and Improvements.** Owners shall maintain all driveway and sidewalk surfaces and exterior Dwelling surfaces, including without limitation roofs, fascias, shutters and soffits, and other improvements located on the Lot in a neat, orderly and attractive manner. Such maintenance shall include, but shall not be limited to, maintaining screens (including screen enclosures), windows and doors (including the wood and hardware of garage doors and sliding glass doors), periodic repainting of exterior surfaces and the replacement of deteriorated wood members and trim. The minimum standard for the foregoing shall be that it is consistent with the general appearance of the improvement as initially constructed and otherwise improved, taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness or ignoring of needed periodic repainting. Owners shall clean, repaint or re-stain, as needed, the exterior portions of each Dwelling and its appurtenant improvements, including exterior surfaces of garage doors, as often as is necessary to comply with the foregoing standards and the Association, in its sole discretion, shall have the right to mandate when such maintenance is needed. Without limiting the generality of the foregoing, each Owner shall be responsible for the maintenance of any portion of his driveway that extends beyond the Lot as well as any sidewalk, grass or other plant material located immediately adjacent thereto in a road right-of-way.

**6.13 Garbage and Refuse.** Trash, garbage or other waste shall be kept only in closed, sanitary containers and shall be promptly disposed of so as not to be objectionable to neighboring property owners. No outside storage for refuse or garbage shall be maintained or used. The Association shall have the right, but not the obligation, at any time to enter into a community wide contract for rubbish removal and to assess the costs for same to all Lot Owners.

**6.14 Vehicular Parking and Storage.** No house trailers, commercial vehicles, boat trailers, aircraft, boats, motor homes, buses, camping vehicles, camping trailers, recreational vehicles or off-road vehicles may be parked on or stored on any Lot or within the Subdivision unless stored fully enclosed within an attached garage built in accordance with restrictions of this Declaration and the Master Declaration. Motorcycles shall be allowed, provided they are kept and operated so as to not create a nuisance (noise or irresponsible operation) to other Owners and occupants within the Subdivisions. All restrictions of local ordinances related to the keeping, repairing and storing of vehicles shall be applicable. Nonoperational vehicles or vehicles with expired license plates shall not be parked within the Subdivisions other than inside an Owner's garage. The Board shall have discretion to issue rules and regulations that provide for the temporary presence of the above enumerated vehicles within the Subdivisions for proper purposes, such as loading and unloading of said vehicles.

For purposes of this Section, commercial vehicles shall include vehicles or trucks with a curb weight of more than 10,000 pounds, overall length in excess of 21 feet, or with more than two axles, vehicles with commercial license plates, vehicles with any commercial markings or advertising appearing on the exterior (excepting small window or bumper type stickers or decals

no larger than a regular size bumper sticker), vehicles not intended for personal transportation, or any vehicle either modified or equipped with attachments, equipment or implements of a commercial trade, including, but not limited to, storage racks, ladder or material racks, snow blades, tanks, spreaders, storage bins or containers, vises, commercial towing equipment or similar items.

Subject to the notice location and content requirements of Section 252(k) of the 2004 Public Act 493 of the Michigan Compiled Laws, if applicable, the Association may cause vehicles parked or stored in violation of this restrictions, or of any applicable rules and regulations of the Association, to be stickered and/or removed (towed) from the Subdivisions, and the cost of such removal may be assessed to, and collected from, the Owner of the Lot responsible for the presence of the vehicle. In such cases, the Owner shall be responsible for costs incurred in having a towing company respond, even if the vehicle is moved and properly parked before the towing contractor arrives to remove the vehicle. All vehicles, other than those used for maintaining the Common Areas, are expressly prohibited from operation or storage on the Common Areas.

**6.15 Rules and Regulations.** Reasonable rules and regulations consistent with the Subdivision Documents concerning the rights and responsibilities of Owners and the Association with respect to the use of the Common Areas, the Subdivisions or the manner of operation of the Association and of the Common Areas and Subdivisions may be made and amended from time to time by the Board of Directors. Copies of all such rules and regulations and any amendments thereto shall be furnished to all Owners and shall become effective as stated in such rule or regulation. Any such rule or regulation may be revoked at any time by the affirmative vote of more than fifty percent (50%) of all Owners entitled to vote.

**6.16 Rental Restrictions .** After the date of recording of this Declaration, an Owner may lease any Lot for the purposes specified in Section 6.02, above, subject to the following additional requirements. An Owner desiring to rent or lease shall not lease less than an entire Lot in the Subdivisions. All leases shall (i) be for an initial term of no less than one (1) year; (ii) require the lessee to comply with the Subdivision Documents and Rules and Regulations of the Association; (iii) provide that failure to comply with the Subdivision Documents and Rules and Regulations constitutes a default under the lease, and (iv) provide that the Board of Directors has the power to terminate the lease or to institute an action to evict the tenant and for money damages after 15 days' prior written notice by certified mail to the Owner, in the event of a uncured default by the tenant in the performance of the lease. Each Owner of a Lot shall, promptly following the execution of any approved lease of a Lot, forward a conformed copy thereof to the Board of Directors. Under no circumstances shall transient tenants be accommodated. For purposes of the Section, a "transient tenant" is a Non-Owner residing in a Lot/Dwelling for less than sixty days, who has paid consideration therefor. For the purposes of this Section, "lease" shall refer to any occupancy agreement, whether or not in writing, for rent or other consideration, where the Lot/Dwelling is not occupied by the owner thereof as a primary or secondary residence for a majority of the year. The terms of all leases, occupancy agreements and occupancy arrangements shall incorporate, or be deemed to incorporate, all of the provisions of the Subdivision Documents and all leases, rental agreements and occupancy agreements shall so state. If the Association determines that any tenant or Non-Owner occupant has failed to

comply with the conditions of the Subdivision Documents, the Association shall take the following action:

A. The Association shall notify the Owner by certified mail advising of the alleged violation by tenant.

B. The Owner shall have fifteen (15) days after receipt of such notice to investigate and correct the alleged breach by the tenant or advise the Association that a violation has not occurred.

C. If after fifteen (15) days, the Association believes that the alleged breach is not cured or may be repeated, it may institute on its behalf or derivatively by the Owners on behalf of the Association an action for eviction against the tenant or Non-Owner and tenant or Non-Owner occupant for breach of the conditions of the Subdivision Documents. The relief set forth in this Section may be by summary proceeding. The Association may hold both the tenant and the Owner liable for any damages incurred by the Association caused by the Owner or tenant. The Owner shall be responsible for reimbursing the Association for all costs incurred in obtaining judicial enforcement of its rights, including actual attorney's fees.

When a Owner is in arrears to the Association in the payment of assessments or any other charges, the Association may also give written notice of the arrearage to a tenant occupying a Owner's Lot/Dwelling under a lease or rental agreement and the tenant, after receiving the notice shall deduct from rental payments due the Owner the arrearage and future assessments as they fall due and pay them to the Association. The deductions shall not be a breach of the rental agreement or lease by the tenant. If the tenant , after being notified, fails or refuses to remit rent, otherwise due the Owner, to the Association, then the Association may (1) issue a statutory Notice to Quit for non-payment of rent, and enforce that notice by summary proceedings.

**6.17 Cost of Enforcing Documents .** Any and all costs, damages, fines, expenses or actual attorneys' fees incurred or levied by the Association in enforcing any of the restrictions set forth in this Declaration or in Rules and Regulations promulgated by the Association and any expenses incurred as a result of the conduct of less than all those entitled to occupy the Subdivisions, or by their licensees or invitees, may be assessed to, secured by a lien on the offending Owner's Lot and collected from the responsible Owner in the manner provided in Article V hereof. This specifically includes actual costs and legal fees incurred by the Association in investigating and seeking legal advice concerning violations, and responding to and defending actions relating to violations in small claims court, or any other court of competent jurisdiction.

## **ARTICLE VII ARCHITECTURAL CONTROL**

The Association may have an Architectural Control Committee if the same can be constituted. If for any reason such Architectural Control Committee is not established or ceases to function, the Board of Directors shall function as the Architectural Control Committee. The Architectural Control provisions of the Master Declaration, as modified and supplemented by the

provisions of this Declaration, shall control. The membership of the Architectural Control Committee shall be selected by the Board of Directors. .

## **ARTICLE VIII ENFORCEMENT**

**8.01 Compliance by Owners.** Every Owner and every Owner's occupants, lessees, guests and invitees (each, a "permittee"), shall comply with the restrictions and covenants set forth herein and in the Subdivision Documents.

**8.02 Remedies for Default.** Failure of an Owner or their permittees to comply with the Subdivision Documents shall be grounds for relief, which may include, without limitation, an action to recover sums due for damages, injunctive relief, foreclosure of lien (if default in the payment of Assessments and as more fully set forth in Article V), or any combination thereof. The Association shall have the right to suspend the rights of use of Common Areas of Owners in default of the Subdivision Documents.

**8.03 Costs Recoverable from Owner.** Failure of an Owner or their permittees to comply with the Subdivision Documents shall entitle the Association to recover from such Owner or their permittee all damages, fines expenses, pre-litigation costs and actual attorneys' fees (including prelitigation costs and fees) incurred in obtaining their compliance with the Subdivision Documents, and all such costs, damages, fines, expenses and actual attorneys' fees incurred may be assessed to and secured by a lien on the offending Owner's Lot. This specifically includes actual costs and legal fees incurred by the Association in investigating and seeking legal advice concerning violations. In addition, in cases where the Association must defend an action brought by any Owners or permittees and regardless if the claim is original or brought as a defense, a counterclaim, cross claim or otherwise, the Association, if successful, shall be entitled to recover from such Owner or permittee pre-litigation costs, the costs of the proceeding and actual attorney's fees incurred in defense of any such claim, but in no event shall any Owner be entitled to recover such attorney's fees or costs against the Association

**8.04 Association's Right to Abate.** The violation of any of the provisions of the Subdivision Documents shall also give the Association or its duly authorized agents the right, in addition to the rights set forth above, to enter upon the Common Areas or onto any Lot (but not into any Dwelling thereon) and summarily remove and abate, at the expense of the Owner in violation, any structure, thing or condition existing or maintained contrary to the provisions of the Subdivision Documents. The Association shall have no liability to any Owner or their permittee arising out of its exercise of its removal and abatement power granted hereunder.

**8.05 Assessment of Fines.** The violation of any of the provisions of the Subdivision Documents by any Owner shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines for such violations in accordance with this Article. The fines levied pursuant this Article shall be assessed against the Owner and shall be due and payable on the first (1<sup>st</sup>) day of the next following month, and all fines duly assessed may be collected in the same manner as provided in Article V of this Amended and Restated Declaration.

**8.06 Failure to Enforce Rights.** The failure of the Association or of any Owner to enforce any right, provision, covenant or condition that may be granted by the Subdivision Documents shall not constitute a waiver of the right of the Association or of any such Owner to enforce such right, provisions, covenant or condition in the future.

**8.07 Cumulative Rights.** All rights, remedies and privileges granted to the Association or any Owner pursuant to any terms, provisions, covenants or conditions of the Subdivision Documents shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity. The covenants, reservations, easements and restrictions contained herein shall be binding upon the heirs, devisees, legatees, executors, administrators, assigns and successors of the respective parties hereto, and upon all purchasers and future Owners of Lots comprising any part of the Subdivisions, and shall inure to the benefit of the Owners, the Country Creek Homeowners Association, the County of Oakland, the Oakland County Drain Commissioner and the Country Creek Drainage District.

**8.08 Fines.** The violation by any Owner or their permittees of any of the provisions of the Subdivision Documents shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines against the involved Owner. Such Owner shall be deemed responsible for such violations whether they occur as a result of their personal actions or the actions of their permittees.

A. Upon any such violation being alleged by the Board, the following procedures will be followed:

(1) Notice of the violation, including the Subdivision Document provision violated, together with a description of the factual nature of the alleged offense set forth with such reasonable specificity as will place the Owner on notice as to the violation, shall be sent by first class mail, postage prepaid, or personally delivered to the Owner or their representative at the address on file with the Association.

(2) The offending Owner shall be provided a scheduled hearing before the Board at which the Owner may offer evidence in defense of the alleged violation. The hearing before the Board shall be at its next scheduled meeting, but in no event shall the Owner be required to appear less than seven (7) days from the date of the notice.

(3) Failure to appear at the scheduled hearing constitutes a default.

(4) 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' decision is final.

B. Upon violation of any of the provisions of the Subdivision Documents, and after default of the offending Owner, or upon the decision of the Board as recited above, the following fines may be levied:

FIRST VIOLATION	No fine will be levied
SECOND VIOLATION	\$50.00 Fine
THIRD VIOLATION	\$100.00 Fine
FOURTH VIOLATION	\$150.00 Fine
AND ALL SUBSEQUENT VIOLATIONS	

The Board of Directors, without the necessity of an amendment to this Amended and Restated Declaration, may make such changes in the fine schedule or adopt alternative fines, including the indexing of such fines to the rate of inflation, in accordance with duly adopted Rules and Regulations. For purposes of this Section, the number of the violation (i.e. first, second etc.) is determined with respect to the number of times that an Owner violates the same provision of the Subdivision Documents, as long as that Owner may be an owner of a Lot or is otherwise residing within the Subdivisions, and is not based upon time or violations of entirely different provisions. In the case of continuing violations, a new violation will be deemed to occur each successive period of time set forth by the Board in its notice of fine (based on what the Board reasonably considers to be a sufficient time to cure the violation) during which a violation continues; however, no further hearings other than the first hearing shall be required for successive violations once a violation has been found to exist. Nothing in this Article shall be construed as to prevent the Association from pursuing any other remedy under the Subdivision Documents for such violations, or from combining a fine with any other remedy or requirement to redress any violation.

**ARTICLE IX  
GENERAL PROVISIONS**

**9.01 Duration.** The covenants and restrictions of this Amended and Restated Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association, any easement holder and any Owner and their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Amended and Restated Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of eighty-five percent (75%) of all the Lots subject hereto, Oakland Township, the County of Oakland, the Oakland County Drain Commissioner and the Country Creek Drainage District has been recorded, agreeing to revoke said covenants and restrictions.

**9.02 Notice.** Any notice required to be sent to any Owner under the provisions of this Amended and Restated Declaration shall be deemed to have been properly sent when personally delivered or mailed, postpaid, to the last known address of the person who appears as Owner on the records of the Association at the time of such mailing.

**9.03 Interpretation.** The Article and Section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions and interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter genders shall each include the others.

**9.04 Severability.** Invalidation of anyone of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

**9.05 Effective Date.** This Amended and Restated Declaration shall become effective upon its recordation with the Oakland County Register of Deeds.

**9.06 Amendment.** This Amended and Restated Declaration may be amended, changed or added to at any time and from time to time upon the execution and recording of an instrument signed by the President of the Association and certifying that the amendment set forth in the instrument was adopted by a vote of at least two-thirds (2/3<sup>rds</sup>) of the votes of all Owners in good standing and as to any provisions concerning them, the approval of the Township of Oakland, the County of Oakland, the Oakland County Drain Commissioner and the Country Creek Drainage District.

**9.07 Conflict.** This Amended and Restated Declaration shall take precedence over conflicting provisions in the Articles of Incorporation, Bylaws and any Rules and Regulations of the Association and the Articles shall take precedence over the Bylaws and the Rules and Regulations.

**9.08 No Public Right or Dedication.** Nothing contained in this Amended and Restated Declaration shall be deemed to be a gift or dedication of all or any part of the Common Areas to the public, or for any public use.

**9.09 Constructive Notice and Acceptance.** Every person who owns, occupies or acquires any right, title, estate or interest or to any Lot or other property located on or within the Subdivisions shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition, lien and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person acquired an interest in such Lot or other property.

**9.10 Covenants Running with the Land.** Anything to the contrary herein notwithstanding, it is the intention of all parties affected hereby (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions shall run with the Property and with title to the Property. Without limiting the generality of this Section, if any provision or application of this Amended and Restated Declaration would prevent this Amended and Restated Declaration from running with the Property, such provision or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will show these covenants and restrictions to so run with the Property; however, if such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties (that these covenants and restrictions run with the Property as aforesaid) be achieved.

[SIGNATURE AND ACKNOWLEDGMENT ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Association has executed this Amended and Restated Declaration on the day and year first above written

Country Creek Homeowners Association,  
a Michigan Nonprofit Corporation

By: David E. Smith  
Name: David E. Smith  
Title: President

STATE OF MICHIGAN )

) ss:

COUNTY OF OAKLAND )

The foregoing instrument was acknowledged before me this 15 day of May, 2017, by David E. Smith, the president of Country Creek Homeowners Association, a Michigan Nonprofit Corporation, on behalf of the Corporation.

Angela Phillips  
\_\_\_\_\_, Notary Public

Oakland County, Michigan  
Acting in Oakland County, Michigan  
My Commission Expires: 6/9/19

Document drafted by and when recorded return to:  
Mark F. Makower, Esq.  
Makower Abbate Guerra Wegner Vollmer PLLC  
30140 Orchard Lake Rd.  
Farmington Hills, MI 48334



**EXHIBIT A**  
**ASSOCIATION BYLAWS**  
(see attached)

## EXHIBIT A

### AMENDED AND RESTATED ASSOCIATION BYLAWS OF COUNTRY CREEK HOMEOWNERS ASSOCIATION

#### ARTICLE I NAME AND LOCATION

**1.01 Name.** The name of the corporation is Country Creek Homeowners Association (the "Association").

**1.02 Location of Principle Office.** The principal office of the Association shall be that which is on file with State of Michigan. The location of the principal office of the Association may be changed by the Board of Directors. Meetings of Owners and Directors may be held in such places within Oakland County, Michigan, as may be designated by the Board of Directors.

#### ARTICLE II DEFINITIONS

**2.01 Definitions Defined in Declaration.** All terms defined in the Amended and Restated Declaration of Easements and Restrictions for the Country Creek Subdivisions recorded in Liber 50696, Pages 819 et seq., Oakland County Records (the "Declaration"), shall have the same meanings when used herein.

#### ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

**3.01 Membership.** Every person or entity who is a record Owner of fee interest in any Lot subject to the Declaration shall be a mandatory Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Notwithstanding anything to the contrary herein, any person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Association. Only Owners in good standing, and their legal representatives, may speak at meetings of the Association or address the Board of Directors or other Owners at any such meetings. Any person in violation of this provision or the rules of order governing the meeting, which are incorporated herein by reference, may be removed from such meeting without any liability to the Association or its Board of Directors.

**3.02 Voting Rights.** Each Owner shall be entitled to one vote for each Lot owned in the subdivisions known as Country Creek Subdivision No. 1, Country Creek Subdivision No. 2, Country Creek Subdivision No. 3 and the Woods of Country Creek Subdivision, provided that such Owner is in good standing. In the case of any Lot owned jointly by more than one Owner, the voting rights appurtenant to that Lot may be exercised only jointly as a single vote. When an entity or more than one person holds an ownership interest in a Lot, such Owners shall file a written notice with the Association designating the individual representative who shall vote at meetings of the Association and receive all notices and other communications from the Association on behalf of such Owners. All Owners must sign and date such notice, which shall state the name and address of the individual

representative designated, the number of the Lots owned by the Owners, and the name and address of each person, firm, corporation, limited liability company, partnership, association, trust or other entity who are the Owners. The Owners may change the designated representative at any time by filing a new notice in the manner provided herein. The Owners shall determine how they exercise their vote for such Lot, but in no event shall the Owners cast more than one vote with respect to any one Lot. Except as otherwise set forth herein or in the other Subdivision Documents, when reference is made to a majority or specific percentage of Owners, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Owners in good standing.

**3.03 Voting.** Votes may be cast by mail, fax, delivery, electronic transmission in any such manner authorized by the person entitled to receive such notice, or any other method approved by the Association in advance of the vote. Any proxies, written votes or other votes cast by means allowed hereunder must be filed with the Secretary of the Association or the Association's management agent at or before the appointed time of each meeting of the Owners of the Association or voting deadline if no meeting is to be held. Cumulative voting shall not be permitted. As used in these Bylaws, "electronic transmission" means transmission by any method not directly involving the physical transmission of paper, which creates a record that may be retrieved and retained by the Association and may be directly reproduced in paper form by the Association through an automated process.

#### **ARTICLE IV MEETINGS OF MEMBERS**

**4.01 Annual Meetings.** The first annual meeting of the Members has already been held. Each subsequent regular annual meeting of the Members shall be held in the month of May each year hereafter at such time and place specified in the notice to the Members of the meeting. The Board of Directors may, acting by a majority vote, change the date of the annual meeting in any given year provided that at least one such meeting is held in each calendar year. At the annual meeting, there shall be elected by ballot of the Owners a Board of Directors in accordance with the requirements of Article V of these Bylaws. The Owners may also transact at annual meetings such other business of the Association as may properly come before them.

**4.02 Special Meetings.** Special meetings of the Members may be called at any time by the President or a majority of the Members of the Board of Directors or upon the written request of the Members entitled to cast not less than one-third (1/3<sup>rd</sup>) of the votes of the entire membership.

**4.03 Notice of Meetings.** Except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws, written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, to each Member entitled to vote at such meeting, by hand delivery or by mailing a copy of such notice, postage prepaid, addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice may also be given by electronic transmission in any such manner authorized by the person entitled to receive such notice. Notice shall be given not less than ten (10) days or more than sixty (60) days before the date of the meeting. Such notice shall specify the place, day and hour of the meeting and, in case of special meeting, the exact purpose of the meeting, including the text of any proposals to be voted on at such special meeting. Waiver by a Member in writing of the notice required herein, signed by them before or after such meeting, shall be equivalent to the giving of such notice.

**4.04 Remote Communication Attendance; Remote Communication Meetings.** A Member may participate in a meeting of the Members by a conference telephone or by other means of remote communication through which all persons participating in the meeting may hear each other, if the Board determines to permit such participation and (a) the means of remote communication permitted are included in the notice of the meeting or (b) if notice is waived or not required. All participants shall be advised of the means of remote communication in use and the names of the participants in the meeting shall be divulged to all participants. Members participating in a meeting by means of remote communication are considered present in person and may vote at such meeting if all of the following are met: (a) the Association implements reasonable measures to verify that each person considered present and permitted to vote at the meeting by means of remote communication is a Member or proxy holder; (b) the Association implements reasonable measures to provide each Member and proxy holder a reasonable opportunity to participate in the meeting and to vote on matters submitted to the Members, including an opportunity to read or hear the proceedings of the meeting substantially concurrently with the proceedings; and (c) if any Member or proxy holder votes or takes other action at the meeting by means of remote communication, a record of the vote or other action is maintained by the Association. A Member may be present and vote at an adjourned meeting of the Members by means or remote communication if they were permitted to be present and vote by the means of remote communication in the original meeting's notice given. Except for the annual meeting of the Members, the Board may hold a meeting of the Members conducted solely by means or remote communication.

**4.05 Quorum.** Except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws, the presence of Members or their proxies entitled to cast twenty percent (20%) of the votes of the entire Membership in good standing (or the equivalent number of votes received through means not involving a meeting) shall constitute a quorum for any action.

**4.06 Adjournment for Lack of Quorum.** If any meeting of Owners cannot be held because a quorum is not in attendance, the Owners who are present may adjourn the meeting to a time not less than forty eight (48) hours from the time the original meeting was called. The quorum for each subsequent meeting shall be reduced by one-half from the quorum requirement of the previously scheduled meeting.

**4.07 Proxies.** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable, be of a duration of not more than eleven (11) months and shall automatically cease upon conveyance by the Member of their Lot.

**4.08 Minutes.** Minutes or a similar record of the proceedings of all meetings of Members and the Board of Directors must be kept by the Association. A recitation in the minutes of any such meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given.

**4.09 Action without Meeting.** Any action that may be taken at a meeting of the Members (except for the removal of Directors) may be taken without a meeting by written vote or ballot of the Members. Written votes or ballots shall be solicited in the same manner as provided in these Bylaws

for the giving of notice of meetings of Members. Such solicitations shall specify (a) the number of responses needed to meet the quorum requirements; (b) the percentage of approvals necessary to approve the action; and (c) the time by which written votes must be received in order to be counted. The form of written vote or ballot shall afford an opportunity to specify a choice between approval and disapproval of each matter and shall provide that, where the Member specifies a choice, the vote shall be cast in accordance therewith. Approval by written vote or ballot shall be constituted by receipt, within the time period specified in the solicitation, of (i) a number of written votes or ballots which equals or exceeds the quorum that would be required if the action were taken at a meeting; and (ii) a number of approvals that equals or exceeds the number of votes that would be required for approval if the action were taken at a meeting.

## **ARTICLE V BOARD OF DIRECTORS**

**5.01 General Powers.** The business and affairs of the Association shall be managed by a Board of Directors.

**5.02 Qualification and Number.** The Board of Directors shall consist of five (5) Directors, all of whom shall be Members of the Association and shall be in good standing. For purposes of these Bylaws, good standing shall be deemed to include a Member who is current in all financial obligations owing to the Association and who is not in default of any of the provisions of the Subdivision Documents. Any Director who is delinquent in any financial obligation owed to the Association, including late fees, shall pay in full the amount due within sixty (60) days of the delinquency. During the period of delinquency, the Director shall not be permitted to vote on any delinquency matter of another Owner, including matters that may affect the Director's own Lot. If the Director does not comply with the delinquency cure time period, and notwithstanding the provisions of Section 5.05, the Director shall be deemed removed from the Board of Directors for the remainder of the Director's term and the vacancy shall be filled in accordance with Section 5.06. No two occupants of the same Lot may serve on the Board of Directors at the same time. Directors shall serve without compensation.

**5.03 Term.** At the first annual meeting following adoption of these Bylaws, all Directors shall stand for election as a single slate. Open director positions will be filled to insure the opportunity for representation on the Board from both the Country Creek Subs & the Woods of Country Creek; meaning to the extent possible there should be a minimum of (1) Board member from the Country Creek Subs collectively and (1) from the Woods of Country Creek serving at all times. The three Directors receiving the highest number of votes shall be elected for a term of two years. The two Directors receiving the next highest number of votes shall be elected for a term of one year. In each year thereafter, either two or three Directors shall be elected for two year terms depending on how many directorships expire that year, with the proviso that the above minimums be maintained at all times possible. [Examples: If there is an election of 2 Board members with 3 candidates (say with 2 Country Creek Owners & 1 Woods Owner running); (A) if there is already at least one Country Creek resident and 1 Woods resident serving out of the 3 remaining directors, the 2 candidates with the most votes would be elected regardless of where they reside; (B) if there is no Country Creek resident serving out of the 3 remaining directors, the 2 candidates with the most votes would be elected because one of the 2 would be a Villas resident; finally (C) ) if there is no Woods resident serving out of the 3 remaining directors, the 2 candidates with the most votes would be elected only if one of the 2 is a Woods resident – if not, the Woods candidate (even though he was 3<sup>rd</sup> in the voting) would get a seat and the

other seat would go to the Country Creek candidate who received the most votes.] If there are no Owners willing to serve from either the Woods or Country Creek and the same is needed to reach the minimum (1) seat on the Board for each type of resident, only then a Board made up of all Woods or all Country Creek Owners would be allowed. All Directors shall hold office until their successors have been elected.

**5.04 Nomination.** Nomination for election to the Board of Directors may be made from the floor at the annual meeting of the Members or by written submittal of a willing candidate's name.

**5.05 Removal.** At any regular or special meeting of the Association duly called and held, any one or more of the Directors may be removed with or without cause by the affirmative vote of more than two-thirds (2/3) of all Owners in good standing, and a successor may then and there be elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting.

**5.06 Vacancies.** Vacancies in the Board of Directors caused by any reason other than the removal of a Director by a vote of the Members shall be filled by vote of the majority of the remaining Directors, even though they may constitute less than a quorum. Each person so appointed shall be a Director until the end of the term of the Director who they replaced and a successor is elected at such annual meeting of the Association.

**5.07 Compensation.** No Director shall receive compensation for any service they may render to the Association in the capacity of Director. However; any Director may be reimbursed for their actual expenses incurred in the performance of their duties.

**5.08 Powers.** The Board of Directors shall have power to:

**A. Management.** To fulfill all responsibilities and duties, and exercise all rights and privileges, set forth in the Master Declaration, the Amended and Restated Declaration, these Bylaws, and any Rules and Regulations of this Association;

**B. Collecting Assessments.** To levy and collect assessments from the Owners and to use the proceeds thereof for the purposes of the Association in accordance with the Master Declaration and the Amended and Restated Declaration;

**C. Insurance.** To carry insurance relative to all Association property and the Common Areas, and to collect and allocate the proceeds thereof;

**D. Rebuild Improvements.** To rebuild improvements after casualty, subject to the terms of the Master Declaration and the Amended and Restated Declaration;

**E. Contract and Employ Persons.** To contract for and employ persons, firms, corporations or other agents to assist in the management, operation, maintenance and administration of the Association, its property, areas of responsibility set forth in the Master Declaration, the Amended and Restated Declaration and the Common Areas;

F. Real or Personal Property. To acquire, maintain and improve, and to buy, operate, manage, sell, convey, assign, mortgage or lease any real or personal property (including any easements, rights-of-way and licenses) on behalf of the Association in furtherance of any of the purposes of the Association;

G. Taxes. To pay real and personal property taxes and governmental; special assessments which are or may become a lien on the Association property or the Common Areas;

H. Borrow Money. To borrow money and issue evidences of indebtedness in furtherance of any and all of the purposes of the business of the Association, and to secure the same by mortgage, pledge, or other lien on property of the Association;

I. Rules and Regulations. To make rules and regulations in accordance with the Declaration;

J. Committees. To establish such committees as it deems necessary, convenient or desirable and to appoint persons thereto for the purpose of implementing the administration of the Association property and the Common Areas and to delegate to such committees, or any specific Officers or Directors of the Association any functions or responsibilities which are not by law or the Master Declaration, the Amended and Restated Declaration or Articles of Incorporation required to be performed by the Board;

K. Representative Duties. To represent Members of the Association on matters of mutual interest before any governmental and administrative bodies, boards and agencies;

L. Enforce Documents. To enforce the provisions of the Master Declaration, the Amended and Restated Declaration, the Articles of Incorporation and the Amended Association Bylaws; and

M. Other. In furtherance of the foregoing purposes, to enter into any kind of activity, to make and perform any contract and to exercise all powers necessary, incidental or convenient to the administration, management, maintenance, repair, replacement and operation of the Subdivisions, the Common Areas and property under the jurisdiction of the Association.

## ARTICLE VI MEETING OF DIRECTORS

**6.01 Regular Meetings.** Regular meetings of the Board of Directors may be held at such times and places as shall be determined from time to time by a majority of the Directors. At least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director personally or by mail, facsimile, electronically or telephone at least ten (10) days prior to the date of the meeting, unless waived by said Director. Meetings of the Directors, excluding executive sessions, shall be open to the Members. Electronic transmission of such notice may also be given in any such manner authorized by the Director entitled to receive the notice which does not directly involve the physical transmission of paper, which creates a record that may be retrieved and retained by the Director, and which may be directly reproduced in paper form by the Director through an automated process.

**6.02 Special Meetings.** Special meetings of the Board of Directors may be called by the president or any two (2) Directors upon three (3) days' notice to each Director given personally, or by mail, facsimile, electronically or by telephone, which notice shall state the time, place and purpose of the meeting. Electronic transmission of such notice may also be given in any such manner authorized by the Director entitled to receive the notice which does not directly involve the physical transmission of paper, which creates a record that may be retrieved and retained by the Director, and which may be directly reproduced in paper form by the Director through an automated process. Special meetings of the Board of Directors shall be called by the president or secretary in like manner and on like notice on the written request of two Directors.

**6.03 Waiver of Notice.** Before or at any meeting of the Board of Directors, any Director may in writing or orally waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meetings of the Board shall be deemed a waiver of notice by that Director of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**6.04 Quorum.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. A Director will be considered present and may vote on matters before the Board by proxy, by teleconference, electronically or by any other method giving the remainder of the Board sufficient notice of the absent Director's vote and position on any given matter, provided however, that any vote not in writing is confirmed in writing not later than the next meeting of the Board. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice. The joinder of a Director in the action of a meeting by signing and concurring in the minutes thereof, shall constitute the presence of such Director for purposes of determining a quorum.

**6.05 Action without Meeting.** Any action permitted to be taken by the Board of Directors at a meeting of the Board shall be valid if consented to in writing, including by electronic transmission, by the requisite majority of the Board of Directors. Further, the presiding officer of the Association, in exceptional cases requiring immediate action, may poll all Directors by phone for a vote, and provided the action is consented to by the requisite number of Directors, such vote shall constitute valid action by the Board, provided the results of the vote and the issue voted upon are noted in the minutes of the next Board meeting to take place.

**6.06 Closing of Board of Director Meetings; Privileged Minutes.** The Board of Directors, in its discretion, may close a portion or all of any meeting of the Board of Directors to the Members of the Association and act in executive session. Any Member of the Association shall have the right to inspect, and make copies of, the minutes of the meetings of the Board of Directors; provided, however, that no Member of the Association shall be entitled to review or copy any minutes of meetings of the Board of Directors to the extent that said minutes reference privileged communications between the Board of Directors and counsel for the Association, or any other matter to which a privilege against disclosure pertains under Michigan Statute, common law, the Michigan Rules of Evidence, or the Michigan Court Rules.

**6.07 Remote Communication.** Members of the Board of Directors may participate in any meeting by means of conference telephone or other means of remote communication through which all persons participating in the meeting can communicate with the other participants. Participation in a meeting by such means constitutes presence in person at the meeting.

## **ARTICLE VII OFFICERS AND THEIR DUTIES**

**7.01 Enumeration of Offices.** The officers of the Association shall be President, who shall at all times be a Member of the Board of Directors, Secretary, Treasurer and such Vice President(s) and other officers as the Board may from time to time by resolution appoint.

**7.02 Election of Officers and Term.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Owners. Each officer shall hold office for one (1) year unless they shall sooner resign, be removed, or be otherwise disqualified to serve.

**7.03 Special Appointments.** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

**7.04 Resignation and Removal.** Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**7.05 Vacancies.** The Board may fill any vacancy in any office. The person appointed to such vacancy shall serve for the remainder of the term of the officer they replace.

**7.06 Multiple Offices.** No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 8.03 of this Article. Notwithstanding the foregoing, the offices of Secretary and Treasurer may be held by the same person.

**7.07 Duties.** The duties of the officers are as follows:

**A. President.** The President shall be the chief executive officer of the Association, and shall preside at all meetings of the Association and of the Board of Directors. The President shall have all of the general powers and duties which are usually vested in the office of the president of a corporation, including, but not limited to, the power to appoint committees from among the Members of the Association from time to time in the President's discretion as may be deemed appropriate to assist in the conduct of the affairs of the Association. The President shall also see that orders and resolutions of the Board are carried out and in the absence of delegation of such power to another officer, sign all leases, promissory notes, mortgages, deeds and other written legal instruments on behalf of the Association.

**B. Vice President.** The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

**C. Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members, serve notice of meetings of the Board and of the Members, keep appropriate current records showing the Members of the Association and their addresses, and perform such other duties as required by the Board.

**D. Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all funds of the Association and disburse such funds as directed by resolution of the Board of Directors, keep proper books of account, issue or cause to be issued all requested certificates setting forth whether the assessments applicable to a specific Lot have been paid, cause an annual independent review of the Association books to be made by an independent public accountant at the completion of each fiscal year, prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting and, if directed by resolution of the Board of Directors, sign all checks of the Association.

## ARTICLE VIII JUDICIAL ACTIONS AND CLAIMS

**8.01 Judicial Actions and Claims.** Actions on behalf of and against the Owners shall be brought in the name of the Association. Subject to the express limitations on actions in these Bylaws and in the Association's Articles of Incorporation, the Association may assert, defend or settle claims on behalf of all Owners in connection with the Common Areas.

## ARTICLE IX FINANCES, BOOKS AND RECORDS

**9.01 Investment of Funds.** Funds of the Association shall only be held in accounts that are fully insured and/or backed by the full faith and credit of the United States Government. Only depositories or instruments where there is no risk of principal loss may be utilized by the Association for investment of its monies.

**9.02 Banking.** The funds of the Association shall be deposited in such bank or other depository as may be designated by the Board of Directors and shall be withdrawn only upon the check or order of such officers, employees or agents as are designated by resolution of the Board of Directors from time to time.

**9.03 Inspection of Records.** The books, records and papers of the Association shall, at all times during reasonable business hours, be subject to inspection by any Owner or their agent. The Subdivision Documents shall be available for inspection by any Owner at the principal office of the Association, where copies may be purchased at reasonable cost.

**9.04 Fiscal Year.** The fiscal year of the Association shall be an annual period commencing on such date as may be initially determined by the Board of Directors. The commencement date of the fiscal year of the Association shall be subject to change by the Board of Directors for accounting

reasons or other good cause.

**ARTICLE X  
MISCELLANEOUS**

**10.01 Indemnification of Directors and Officers.** Every Director and every officer of the Association shall be indemnified by the Association against all expenses and liabilities, including actual and reasonable counsel fees and amounts paid in settlement incurred by or imposed upon the Director or officer in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, to which the Director or officer may be a party or in which they may become by reason of their being or having been a Director or officer of the Association, whether or not they are a Director or officer at the time such expenses are incurred, except in such cases wherein the Director or officer is adjudged guilty or willful or wanton misconduct or gross negligence in the performance of the Director's or officer's duties, and except as otherwise prohibited by law; provided that, in the event of any claim for reimbursement or indemnification hereunder based upon a settlement by the Director or officer seeking such reimbursement or indemnification, the indemnification herein shall apply only if the Board of Directors (with the Director seeking reimbursement abstaining) approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled. At least ten (10) days prior to payment of any indemnification that it has approved, the Board of Directors shall notify all Owners thereof. The indemnification rights of this Article shall be at all times construed to be consistent with those contained in the Articles of Incorporation of the Association.

**10.02 Amendments.** These Bylaws may be amended or repealed and new Bylaws adopted at any regular or special meeting of the Owners, or by other methods allowed by the these Bylaws for voting upon matters, by the affirmative vote of a majority of the eligible votes in the Association or by alternative means of voting, subject to normal quorum requirements.

**10.03 Conflicts.** In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control. In the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

## EXHIBIT B

### COMMON AREAS

In addition to the Common Areas defined and specified in the Master Declaration, the storm drainage easement areas; wetlands, woodlands and other property not necessarily owned by, but under the control of the Association, including all Subdivision entrances, street islands, common landscape areas, common lighting, common irrigation, street signs and parks, including improvements therein, consisting of Country Creek Park, Country Creek Park West, Country Creek Park North, Country Creek Park East, Foxwood Park, Country Crossing Park, Richmond Park, Hunter Park, Arlington Park, South Creek Park, Kern Park North, Kern Park South, Deer Park and Deer Park South,

10-30-353-001	South Creek Park
10-30-351-002	Kern Park South
10-30-351-001	Kern Park North
10-30-376-008	Deer Park South
10-30-326-005	Deer Park
10-30-453-023	Country Creek Park
10-30-379-012	Country Creek Park West
A. 10-30-378-004	" "
10-30-376-001	Country Creek Park North
10-30-453-022	Country Creek Park East
10-30-421-024	Foxwood Park
10-30-403-006	Country Crossing Park
10-30-421-023	Richmont Park
10-30-426-004	Hunter Park
10-30-426-022	Arlington Park

**EXHIBIT C**

**SUBDIVISIONS COVERED BY THIS AMENDED AND RESTATED DECLARATION**

Country Creek Subdivision No. 1  
Country Creek Subdivision No. 2  
Country Creek Subdivision No. 3  
Woods of County Creek

**PLATS COMPRISING THE SUBDIVISIONS**

Lots 1-65 of Country Creek Subdivision No. 1, as recorded in Liber 230, Pages 28-35 of Plats, Oakland County Records

*10-30-453-000 ent*

Lots 66-133 of Country Creek Subdivision No. 2, as recorded in Liber 238, Pages 13-22 of Plats, Oakland County Records, as amended by instruments recorded in Liber 15657, Pages 699 et seq., and Liber 15775, Pages 009 et seq., Oakland County Records

*10-30-357-000 ent*

Lots 134-202 of Country Creek Subdivision No. 3, as recorded in Liber 259, Pages 18-55 of Plats, Oakland County Records

*10-30-329-000 ent*

Lots 1-68 of Woods of Country Creek Subdivision, as recorded in Liber 242, Pages 13-20 of Plats, Oakland County Records

*10-30-429-000 ent*

**EXHIBIT D**

**PORTION OF COUNTRY CREEK PARK WEST TO BE USED SOLELY FOR  
RECREATIONAL PURPOSES**

Part of the SW ¼ of Section 30, T4N, R11E, Oakland Township, Oakland County, Michigan, more particularly described as:

Commencing at the S ¼ corner of Section 30; thence S 88°08'53" W 1151.70 feet along the S line of said Section 30 (Silverbell Road); thence N 01°36'44" W 60.00 feet to a point on the proposed N right-of-way line of said Silverbell Road; thence N 88°08'53" E 241.55 feet along said proposed right-of-way line to the point of beginning; thence N 01°51'07" W 50.00 feet; thence N 88°08'53" E 298.89 feet; thence S 01°51'07" E 50.00 feet to a point on the said N right-of-way line; thence S 88°08'53" W 298.89 feet along said right-of-way line to the point of beginning and containing 0.34 acres.

pt. 10-30-379-012  
pt. 10-30-378-004

## EXHIBIT E

### PARCEL BENEFITING FROM STORM WATER EASEMENT

A part of Section 30, T4N, R11E, Oakland Township, Oakland County, Michigan, more particularly described as:

A PART OF THE SOUTHEAST AND SOUTHWEST ¼ OF SECTION 30, T-4-N., R-11-E., OAKLAND TOWNSHIP, OAKLAND COUNTY, MICHIGAN, MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTH ¼ CORNER OF SECTION 30; THENCE S. 88° 08' 53" W., 1,151.70 FEET ALONG THE SOUTH LINE OF SAID SECTION 30 (SILVERBELL ROAD); THENCE N. 01° 36' 44" W., 110.00 FEET; THENCE N. 88° 08' 53" E., 540.23 FEET; THENCE N. 15° 35' 51" W., 160.09 FEET; THENCE ON A CURVE TO THE RIGHT 81.84 FEET, SAID CURVE HAVING A RADIUS OF 60.00 FEET, CENTRAL ANGLE OF 78° 09' 08" AND A LONG CHORD BEARING OF N. 66° 31' 17" W., 75.64 FEET; THENCE S. 62° 33' 18" W., 195.18 FEET; THENCE N. 07° 10' 25" E., 310.47 FEET; THENCE N. 09° 41' 47" E., 60.00 FEET; THENCE N. 04° 30' 00" W., 143.28 FEET; THENCE N. 85° 30' 00" E., 364.71 FEET; THENCE S. 04° 30' 00" E., 150.00 FEET; THENCE N. 85° 30' 00" E., 105.00 FEET; THENCE ALONG A CURVE TO THE LEFT 79.36 FEET, SAID CURVE HAVING A RADIUS OF 320.00 FEET, CENTRAL ANGLE OF 14° 12' 33" AND A LONG CHORD BEARING OF N. 78° 23' 44" E., 79.16 FEET; THENCE N. 18° 42' 33" W., 150.00 FEET; THENCE N. 56° 48' 48" E., 85.00 FEET; THENCE N. 27° 44' 32" E., 84.96 FEET; THENCE DUE NORTH 202.98 FEET; THENCE N. 39° 00' 00" W., 552.10 FEET; THENCE N. 04° 00' 00" W., 214.28 FEET; THENCE N. 08° 00' 00" W., 125.00 FEET; THENCE N. 34° 00' 00" W., 320.00 FEET; THENCE N. 81° 35' 21" E., 253.55 FEET; THENCE N. 45° 30' 00" E., 157.00 FEET; THENCE N. 06° 30' 00" E., 83.00 FEET; THENCE N. 31° 30' 00" W., 125.00 FEET; THENCE N. 27° 30' 00" E., 131.50 FEET; THENCE N. 82° 00' 00" E., 310.50 FEET; THENCE N. 79° 00' 00" E., 238.00 FEET; THENCE N. 88° 13' 32" E., 193.21 FEET; THENCE N. 82° 18' 46" E., 43.00 FEET; THENCE N. 07° 41' 14" W., 371.77 FEET; THENCE N. 82° 18' 46" E., 931.06 FEET; THENCE N. 82° 55' 49" E., 1324.18 FEET TO A POINT ON THE EAST LINE OF SECTION 30 (ADAMS ROAD); THENCE S. 01° 21' 20" E., 1297.19 FEET ALONG SAID LINE; THENCE S. 88° 09' 11" W., 1301.00 FEET; THENCE N. 37° 54' 29" W., 141.74 FEET; THENCE S. 88° 09' 11" W., 494.00 FEET; THENCE S. 45° 03' 34" W., 86.00 FEET; THENCE ALONG A CURVE TO THE RIGHT 303.05 FEET, SAID CURVE HAVING A RADIUS OF 414.00 FEET, CENTRAL ANGLE OF 41° 56' 26" AND A LONG CHORD BEARING OF S. 23° 58' 13" E., 296.33 FEET; THENCE S. 03° 00' 00" E., 1,012.60 FEET; THENCE ALONG A CURVE TO THE LEFT 253.70 FEET, SAID CURVE HAVING A RADIUS OF 336.00 FEET, CENTRAL ANGLE OF 43° 15' 43" AND A LONG CHORD BEARING OF S. 24° 37' 52" E., 247.72 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG A CURVE TO THE RIGHT 121.82 FEET, SAID CURVE HAVING A RADIUS OF 254.00 FEET, CENTRAL ANGLE OF 27° 28' 43" AND A LONG CHORD BEARING OF S. 32° 31' 22" E., 120.65 FEET; THENCE N. 71° 12' 59" E., 86.00 FEET; THENCE ALONG A CURVE TO THE RIGHT 100.52 FEET, SAID CURVE HAVING A RADIUS OF 340.00 FEET, CENTRAL ANGLE OF 16° 56' 20" AND A LONG CHORD BEARING OF S. 10° 18' 51" E., 100.15 FEET; THENCE S. 01° 50' 40" E., 288.00 FEET TO A POINT ON THE SOUTH LINE OF SECTION 30; THENCE S. 88° 09' 20" W., 1,070.00 FEET ALONG SAID LINE TO THE POINT OF BEGINNING.

10-30-453-000 ent Country Creek #1  
10-30-427-000 ent Woods of Country Creek  
falls within 10-30-329-000 ent  
Country Creek #3

**ARTICLES OF INCORPORATION  
COUNTRY CREEK HOMEOWNERS ASSOCIATION**

MICHIGAN DEPARTMENT OF COMMERCE — CORPORATION AND SECURITIES BUREAU						
(FOR BUREAU USE ONLY)				<b>FILED</b>		Date Received <b>AUG 06 1993</b>
				AUG 06 1993		
				Administrator MICHIGAN DEPARTMENT OF COMMERCE Corporation & Securities Bureau		
CORPORATION IDENTIFICATION NUMBER				7	0	3
				—	7	7

**ARTICLES OF INCORPORATION**

For use by Domestic Nonprofit Corporations

(Please read information and instructions on last page)

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Articles:

**ARTICLE I**

The name of the corporation is:

COUNTRY CREEK HOMEOWNERS ASSOCIATION

**ARTICLE II**

The purpose or purposes for which the corporation is organized are:

A. To provide for the ownership, maintenance and preservation of certain common areas and improvements located and to be located within all phases of Country Creek Subdivisions as now and to be established and located in the Township of Oakland, Oakland County, Michigan, including, without limitation, subdivision entrances, private parks, storm drainage areas, wetland conservation areas and open areas now or to be established on the plat(s) of Country Creek Subdivisions. (See Sheet Attached)

**ARTICLE III**

The corporation is organized upon a non-stock basis.  
(stock or nonstock)

1. If organized on a stock basis, the total number of shares which the corporation has authority to issue is N/A. If the shares are, or are to be, divided into classes, the designation of each class, the number of shares in each class, and the relative rights, preferences and limitations of the shares of each class are as follows:


*Handwritten:* 22.50 10/6/08 CK MK



Use space below for additional Articles or for continuation of previous Articles. Please identify any Article being continued or added. Attach additional pages if needed.

See Sheet Attached.

I (We), the incorporator(s) sign my (our) name(s) this 4<sup>th</sup> day of August, 1993.

  
\_\_\_\_\_  
DANIEL M. SHARE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C&S-502

DOCUMENT WILL BE RETURNED TO NAME AND MAILING ADDRESS  
INDICATED IN THE BOX BELOW.

Daniel M. Share, Atty.  
Barris, Sott, Denn & Driker  
211 West Fort, 15th Floor  
Detroit, MI 48226

Barris, Sott, Denn & Driker

Daniel M. Share, Atty

313 965-9725

**ATTACHMENT TO THE ARTICLES OF INCORPORATION  
OF COUNTRY CREEK HOMEOWNERS ASSOCIATION**

August 4, 1993

**ARTICLE II**

- B. To collect and disburse assessments on property located in all phases of Country Creek Subdivisions.
- C. To promote the health, safety and welfare of the residents within Country Creek Subdivisions and enforce the deed restrictions, covenants and easements applicable to the Subdivisions.
- D. To engage in any activity in furtherance of the above-stated purposes within the purposes for which a non-profit corporation may be organized under MCL §450.2101, et seq., Michigan's Non-Profit Corporation Act.

**ARTICLE VI**

Any action required or permitted by the Act to be taken at an annual or special meeting of the members may be taken without a meeting, without prior notice and without a vote, if a consent in writing, setting forth the action so taken, is signed by members having not less than the minimum number of votes that would be necessary to authorize or take the action at a meeting at which all members entitled to vote thereon were present and voted. Prompt notice of the taking of the corporate action without a meeting by less than unanimous consent shall be given to members who have not consented in writing.

**ARTICLE VII**

- A. **Fiduciary Duties of Volunteer Directors - Liability and Indemnity.**
  - 1. Volunteer directors of this Corporation shall not be personally liable to the Corporation or its members for monetary damages for a breach of the volunteer director's fiduciary duty; however, this Article VII shall not eliminate or limit the liability of a volunteer director for any of the following:
    - a. a breach of the volunteer director's duty of loyalty to the Corporation;
    - b. acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of the law;

- c. a violation of Section 551(1) of the Michigan Non-Profit Corporation Act, 1982 Public Act 162, as amended (pertaining to distributions of corporate assets in violation of law);
  - d. a transaction from which the volunteer director derived an improper personal benefit; or
  - e. an act or omission that is grossly negligent.
2. The Corporation shall indemnify a director for any breach of his/her fiduciary duty where that breach results in the volunteer director being named or threatened to be named a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a volunteer director of the Corporation. The volunteer directors shall be indemnified against expenses, including attorneys' fees, judgments, penalties, fines and amounts paid in settlement, actually and reasonably incurred by the person in connection with such actual, threatened or contemplated action, suit or proceeding except those instances as enumerated in (a) through (e) above.

**B. Duties of Volunteer Directors to Third Parties + Liability and Indemnity.**

1. The Corporation assumes all liability to any person, other than the Corporation and its members, for all acts or omissions of a volunteer director taken in furtherance of the Corporation's affairs. This assumption of liability is intended to be to the fullest extent allowed under Michigan law, including but not limited to 1987 PA 170 §1. All claims for monetary damages for a breach of a volunteer director's duty to any person, other than the Corporation or its members, as a result of actions taken in furtherance of the Corporation's affairs shall be brought or maintained solely against the Corporation.
2. The Corporation shall indemnify the volunteer directors for a breach of duty toward any person, other than the Corporation and its members, for all acts or omissions of the volunteer director where, notwithstanding the assumption of liability in paragraph B.1 above, the breach results in the volunteer director being named or threatened to be named a party to any threatened, pending or completed action, suit or proceeding, whether criminal, administrative, civil or investigative, by reason of the fact that the person is or was a volunteer director of the Corporation. The Corporation shall indemnify the volunteer director against expenses, including attorneys fees, judgments, penalties, fines and amounts paid in settlement, actually and reasonably incurred by the person in connection with such actual, threatened or contemplated action, suit or proceeding.

- C. Acts and Omissions by Non-Volunteer Directors, Officers, Employees and Agents - Indemnification for Actions by or in the Right of the Corporation. With respect to acts or omissions by non-volunteer directors, officers, employees or agents of the Corporation, the Corporation shall indemnify any such person who was or is a party or is threatened to be named a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that the person is or was a non-volunteer director, officer, employee or agent of the Corporation, against expense (including attorneys' fees) actually and reasonably incurred by the person in connection with the defense or settlement of such action or suit if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation. However, no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of the person's duty to the Corporation unless, and only to the extent that, the Court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expense which the Court shall deem proper.
- D. Non-Volunteer Directors, Officers, Employees and Agents - Indemnification for Actions by Third Parties. With respect to acts or omissions by non-volunteer directors, officers, employees or agents of the Corporation, the Corporation shall indemnify any such person who was or is a party or is threatened to be named a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, other than an action by or in the right of the Corporation, by reason of the fact that the person is or was a non-volunteer director, officer, employee or agent of the Corporation, against expenses, including attorneys' fees, judgments, penalties, fines and amounts paid in settlement actually and reasonably incurred by the person in connection with such action, suit or proceeding if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the Corporation, and with respect to any criminal action or proceeding, if the person had no reasonable cause to believe that the conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any criminal action or proceeding, had reasonable cause to believe that the conduct was unlawful.
- E. Determination of Indemnification. Any indemnification under paragraphs A, B, C and D of this Article VII (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification or partial indemnification, of the director, officer, employee or agent is proper in the circumstances because the person has met the applicable standard of conduct set forth in paragraphs A, B, C and D of this Article VII. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum (as defined in the By-Laws of the Corporation

(consisting of directors who were not parties to such action, suit or proceeding, or (2) if such quorum is not obtainable, by a majority vote of a committee of not less than two (2) disinterested directors, (3) by independent legal counsel in a written opinion, or (4) by the members. Notwithstanding the failure or refusal of the directors, counsel or members to make provision therefor, such indemnification shall be made if a court of competent jurisdiction makes a determination that the director, officer, employee or agent has a right to indemnification hereunder in any specific case upon the application of such director, officer, employee or agent.

- F. Liability for Determination of Indemnification. Neither the Corporation nor its directors or officers, nor any person acting on its behalf, shall be liable to anyone for any determination made in reliance upon the advice of counsel as to the existence or absence of conduct which would provide a basis for making or refusing to make any payment of indemnification under this Article VII or for taking or omitting to take any other action under this Section.
- G. Advance Payment of Expenses. Expenses incurred in defending a civil action, suit or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors in the specific case upon an undertaking by or on behalf of the defending director, officer, employee or agent to repay such amount unless it shall ultimately be determined that the person is entitled to be indemnified by the Corporation. The undertaking shall be by unlimited general obligation of the person on whose behalf advances are made, but need not be secured.
- H. Insurance. The Corporation shall have the authority to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, against any liability asserted against the person or the Corporation, and incurred by the person or the Corporation in any such capacity, or arising out of his/her status as such, whether or not the Corporation would have the authority to indemnify the person against such liability under the provisions of this Article.
- I. Definitions. "Volunteer Director" means a director employee or agent who does not receive anything of value from the Corporation for serving as a director other than the reasonable and necessary expenses incurred in his/her capacity as a director. "Director" includes both volunteer directors and non-volunteer directors.
- J. General Purposes. It is the intention of this Section to limit liability and provide indemnification for the directors, officers, employees and agents of the Corporation to the fullest extent permitted by 1987 PA 170, or, if it allows greater indemnity, the successor to 1987 PA or its amendments, in order to induce talented and interested persons to serve the Corporation.

DECLARATION OF EASEMENTS AND RESTRICTIONS  
FOR COUNTRY CREEK PLANNED UNIT DEVELOPMENT  
REG/DEEDS PAID  
DEC 29 04:28PM  
3923 MISC 51.00

WHEREAS the undersigned, EAGLE CREEK MASTER LIMITED PARTNERSHIP, a Michigan limited partnership, whose address is 30100 Telegraph Road, Suite 366, Bingham Farms, Michigan 48025 ("Grantor") is the owner of the lands hereafter described, and intends to develop or to cause to be developed a planned unit development known as Country Creek Planned Unit Development (the "Planned Unit Development"), including "Common Areas" for the benefit of the occupants of the Planned Unit Development, on that land located in the Township of Oakland, Oakland County, Michigan, more particularly described on Exhibit A, attached; and

WHEREAS, Grantor desires to provide for the preservation and enhancement of the property values and amenities in the Planned Unit Development and for the maintenance of the Common Areas and improvements, and to this end desires to subject the Planned Unit Development and the Common Areas to the covenants, restrictions, easements, charges and liens hereafter set forth, each and all of which is and are for the benefit of the Planned Unit Development and each Owner of a residence or other improvement therein; and

WHEREAS, it is necessary for the efficient preservation of the values and amenities in the Planned Unit Development to create legal entities to own, maintain and administer the Common Areas and facilities that may be constructed thereon, including without limiting the generality thereof, wetlands and other natural areas, storm water drainage areas, plantings, shrubs, trees and the Planned Unit Development entrance walls or monuments, and to collect and disburse the assessments and charges hereafter created, as well as to promote the architectural harmony of the Planned Unit Development and the recreation, health, safety and welfare of the occupants of the Planned Unit Development

REG/DEEDS PAID  
DEC 29 04:28PM  
3923 RMT FEE 2.00

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the undersigned, its successors and assigns, and all intending purchasers, the future Owners of the various properties comprising the Planned Unit Development, the undersigned Grantor for itself, its successors and assigns does hereby publish and declare and make known to all intending purchasers, future Owners, lessees and occupants of the various properties comprising the Planned Unit Development, that the same will and shall be used, held and/or sold 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 said Lots and shall run with the land and be binding upon all grantees of individual properties in the Planned Unit Development and on their respective heirs, personal representatives, successors and assigns.

B-5101

#

There shall be established the Country Creek Homeowners Association consisting of the Owners of all single-family residential Lots in the areas of the Planned Unit Development designated for single-family residences and the Villages of Country Creek Association, consisting of the owners of all condominium units established or to be established within the Planned Unit Development. Each such Association shall be organized as a non-profit corporation for a perpetual term under the laws of the State of Michigan, within a reasonable time following the recording of the first Subdivision Plat, as to the residential lots to be located within the Planned Unit Development, and the recordation of the Condominium Master Deed as to the condominium units to be established within the Planned Unit Development. Each Association shall have such powers as are granted to it by these Restrictions and as shall be set forth in its By-Laws and the laws of the State of Michigan, subject, however, to any and all conditions imposed by the Township in the approval of the Planned Unit Development, as the same may be amended, altered, expanded and/or deleted by the Township in accordance with applicable laws.

I. DEFINITIONS

A. "Association" shall mean and refer to the COUNTRY CREEK HOMEOWNERS ASSOCIATION and the VILLAGES OF COUNTRY CREEK ASSOCIATION, each a Michigan

*Handwritten initials and date: 12/29/92*

*Handwritten note: As per custo*

**OK - G.K.**

non-profit corporation, their successors and assigns, singly or together as the context shall require.

B. "Common Areas" shall mean:

1. the south one hundred ten (110') feet of the Planned Unit Development fronting on Silverbell Road; the east one hundred ten (110') feet of the Planned Unit Development fronting on Adams Road, and the west one hundred ten (110') feet of the Planned Unit Development fronting on Kern Road;
2. the areas described as Open Space on Exhibit B attached;
3. the entry monuments to the single-family residential portions of the Planned Unit Development and the condominium portions of the Planned Unit Development as shown on Exhibit B attached; and
4. a fifty (50') foot wide buffer zone along the west and north edge of Phase 6 of the Planned Unit Development as shown in Exhibit B attached.

The precise boundary of the Common Area shall be subject to adjustment by Grantor or its successor and the Township. Changes in any Common Area boundary shall be evidenced by a statement within any Plat or Condominium Master Deed recorded with respect to the Planned Unit Development or by amendment to this Declaration; provided that no such change shall conflict with the provisions of any preliminary plat or site plan for a phase within the Planned Unit Development which has been approved by the Township.

C. "Grantor" shall mean and refer to EAGLE CREEK MASTER LIMITED PARTNERSHIP, a Michigan limited partnership, its successors and assigns, including any person or entity (other than Owners) which acquires title to all or any part of the Planned Unit Development or the Common Areas directly from Grantor by foreclosure or deed in lieu of foreclosure.

D. "Declaration" shall mean and refer to this Declaration of Restrictions dated December 22, 1992.

E. "Lot" shall mean and refer to:

1. any numbered lot shown on any recorded Plat of any single-family residential portion of the Planned Unit Development;
2. any numbered condominium unit shown on any recorded Condominium Master Deed for any part of the Planned Unit Development Agreement; and
3. the owner of all or any part of Phase 6 (the commercial phase) of the Planned Unit Development),

excepting therefrom the Common Areas.

F. "Member" shall mean and refer to those persons entitled to membership in an Association, as provided in this Declaration.

G. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to a Lot, including land contract purchasers, but excluding those having such interest merely as security for the performance of an obligation. When more than one (1) person or entity has an interest in the fee title of a Lot, the interest of all such persons collectively shall be that of a single Owner.

H. "Township" shall mean and refer to the Charter Township of Oakland, Oakland County, Michigan.

I. "Wetlands and Watercourses" shall mean the areas depicted as regulated wetland and one hundred (100) year floodplain on Exhibit C attached.

II. DEDICATION OF COMMON AREAS

## A. Grantor hereby dedicates and conveys to:

1. each Owner of a Lot within the residential portions of the Planned Unit Development a right and easement of enjoyment in and to the Common Areas located within the residential portions of the Planned Unit Development;
2. each owner of a Lot within the condominium portion of the Planned Unit Development a right and easement of enjoyment in and to the Common Areas located within the condominium portion of the Planned Unit Development; and
3. each owner of any portion of the commercial portion of the Planned Unit Development, a right and easement of enjoyment in and to the Common Areas located within the commercial portion of the Planned Unit Development;

and hereby covenants that it will, on request of the applicable Association, convey title to the Common Areas to the Association established for the type of use (single-family residential, condominium or commercial, if a commercial Association is established) within the Planned Unit Development. Upon such conveyance and control being turned over to the applicable Association, any and all responsibility and liability with respect to the property conveyed, including by way of illustration and not limitation, payment of taxes, assessments and maintenance, shall cease and terminate as to the Grantor and shall pass to and rest upon and be assumed by the grantee Association pursuant to the Association By-Laws and in the rules and regulations provided therefor. Grantor also grants, conveys and declares an easement in favor of all Owners for passage on foot or by bicycle over all portions of the Common Area (regardless of the phase of the Planned Unit Development in which such Owner owns property), located within/fronting on Adams and Silverbell Roads and described as a bicycle and pedestrian path on Exhibit B attached.

- B. After the conveyance provided for in Section II.A, the applicable Association shall maintain liability and hazard insurance in sufficient amounts for the purpose of protecting itself as well as the Owners, the Grantor from the burden of any liability resulting from accidents which may cause death or injury to anyone or damage or casualty to personal property while in the Common Areas.
- C. Until conveyance to an Association, Grantor reserves the right to publish from time to time rules and regulations consistent herewith governing the use of the Common Areas, as well as any other matter relating thereto. The Grantor may delegate or assign this right to its successors or an Association.

III. PROPERTY RIGHTS

- A. Owner's Easements Of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas within the portion of the Planned Unit Development in which that Owner's Lot is located (residential, condominium or commercial) in common with all other Owners of Lots within the same area of the Planned Unit Development which shall be appurtenant to and shall pass with the title to every Lot, whether or not specifically set forth in the deed of conveyance of said Lot, subject to the following provisions:

1. the right of the Association having charge of that portion of the Planned Unit Development (the "applicable Association") to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas within that portion of the Planned Unit Development;
2. the right of the applicable Association to suspend the voting rights and the right to use all or any portion of the Common Areas by an Owner during any period during which any assessment against the Owner's Lot remains unpaid;

3. the easements and limitations shown on a subdivision Plat or Condominium Master Deed recorded with respect to that portion of the Planned Unit Development; and
4. the Common Areas may be used for suitable recreation, such as hiking, nature study and similar pursuits in keeping with the nature of the area, as well as for the storage and drainage of surface water (with respect to storage and artificial drainage of surface water, in accordance with construction plans approved by the Township). Recreational facilities, including but not limited to bridges and bike paths may be constructed in the Common Areas by the applicable Association or the Grantor. Nothing in this Section, however, shall be construed to create any obligation whatsoever to construct any recreational facilities by any Association or the Grantor. All Members of the applicable Association, and guests accompanying said Members, shall have equal access to the Common Areas within the area of use (residential, commercial or condominium) of the Planned Unit Development in which they reside, and all facilities located thereon, subject to rules and regulations established by the Association, including but not limited to the right to place limitations on the number of guests or to prohibit guests at certain prescribed times. All reasonable efforts shall be utilized by the applicable Association and the membership to preserve and maintain the trees, shrubs and landscaping, if any, within any Common Areas. No Owner may remove trees and/or shrubs from the Common Areas for planting upon his/her property or any other purpose.

No buildings may be constructed on or over any portion of the Common Area, provided that an eight (8') foot wide bicycle/pedestrian path may be constructed and maintained within that portion of Common Area designated therefore and entry monuments may be erected and maintained within those portions of the Common Area designated therefor.

- B. Delegation of Use. Any owner may delegate in accordance with the By-Laws, his/her right of enjoyment in and to the Common Areas and facilities to the Member's immediate family, his/her tenant(s) or his/her land contract purchasers.

#### IV. MEMBERSHIP AND VOTING RIGHTS

- A. Membership. Every Owner of a Lot in the Planned Unit Development shall be a mandatory Member of the applicable Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.
- B. Voting Rights. The members of Villages of Country Creek Association shall have voting rights as set forth in the Condominium Master Deed and attachments (including the Condominium By-Laws) recorded with respect to the Condominium portion of the Planned Unit Development. The Country Creek Homeowners Association shall have two (2) classes of voting membership:
  1. Class A Members shall be all Owners, with the exception of the Grantor and its builder/purchasers. Class A Members shall have no voting rights until the first to occur of the following:
    - a. the Class A Members having attained the number of at least two hundred forty-eight (248); or
    - b. six (6) years from the date of recording of the first Subdivision Plat.

Upon the happening of the first to occur of said events, the Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons collectively shall be Members, and the vote for each such Lot shall be exercised as they determine; provided that in no event shall more than one (1) vote be cast with respect to any one (1) Lot; and

2. Class B Members shall be the Grantor and/or its builder/purchasers. Class B Members shall be entitled to one (1) vote for each Lot owned

by such Class B Member designated for development with the Planned Unit Development Plan [i.e., two hundred seventy-five (275) Lots in the single-family residential component of the Planned Unit Development]. In the event a builder/purchaser owns a Lot by virtue of having entered into a Land Contract with Grantor, the builder/purchaser, and not Grantor, shall be entitled to exercise the voting right for each Lot subject to the Land Contract, for so long as the Land Contract is not in default.

- C. Board of Directors. Each Association shall be operated by a board of directors established and operated according to that Association's by-laws.

#### V. COVENANT FOR MAINTENANCE ASSESSMENTS

- A. Maintenance of Common Areas in Condominium Portion of the Planned Unit Development. The Villages of Country Creek Association shall, at its sole cost and expense, operate, maintain, manage and improve the Common Areas, the storm water drainage, detention and retention facilities, and any Wetlands and Watercourses within the Condominium area of the Planned Unit Development in good order and repair and in accordance with all applicable statutes, ordinances, regulations and the standards described in Section V.C below. The Villages of Country Creek Association shall assess the cost of such operation, maintenance, management and improvement to members of the Association in accordance with Article II of Exhibit A to the Condominium Master Deed.
- B. Creation Of The Lien And Personal Obligation Of Assessments. Each Owner of a Lot (other than an owner of a Lot in the Condominium phase of the Planned Unit Development), 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 applicable Association:
1. annual general assessments or charges; and
  2. special assessments for capital improvements, such assessments to be established and collected as hereafter provided.

The annual general and special assessments, together with interest thereon, collection costs, including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien on the property against which each such assessment is made. Each such assessment, together with interest thereon, costs of collection thereof, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to a successor in title unless expressly assumed by them, but shall remain a lien upon the property, unless paid.

- C. Purpose of Assessments. Assessments described in Section V.B shall be levied by the applicable Association against each Lot within the area of the Planned Unit Development (single family residential or commercial) for which such Association is responsible. Assessments shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the Owners of Lots in the portion of the Planned Unit Development (single-family residential or commercial) for which such Association is responsible and, in particular, for the operation, maintenance, management and improvement of the Common Areas and any storm water drainage, detention and retention facilities within the applicable portion of the Planned Unit Development, including, but not limited to, the payment of cleaning and maintenance of any detention or retention basins and related facilities, the payment of taxes and for insurance, maintenance, repair and replacement of all improvements and landscaping thereon and additions thereto, for the cost of labor, equipment, materials, management and supervision for and in connection with any Common Areas, maintenance and improvements and the applicable Association itself; and for the preservation, repair and maintenance of all entranceways or monuments, bike paths, improvements or facilities constructed or placed within, on or upon or for the benefit of the Common Areas or portion of the Planned Unit Development (single-family residential or commercial) within which such Common Areas are located.

- D. Special Assessments For Capital Improvements. In addition to the annual general assessments authorized above, each applicable Association (single-family residential or commercial) may levy upon its Members, 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 any improvement upon the Common Areas or permitted herein including fixtures and personal property, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of each class of Members who are entitled to vote, in person or by proxy, at a meeting duly called for this purpose.
- E. Notice And Quorum For Actions Authorized Under Section V.D. Written notice of any meeting called for the purpose of taking any action authorized under Section VI.D. shall be sent to all Members not less than ten (10) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty (60%) percent of all votes of each class of membership entitled to vote shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.
- F. Limitation On Assessment To Grantor And Builder/Purchasers. Notwithstanding anything in this Section V to the contrary, neither the Grantor or any builder/purchaser shall be liable to pay any general assessment of the applicable Association; provided that in lieu of a general assessment any Owner who is Grantor or, if Grantor has sold a Lot on Land Contract to a builder/purchaser, then such builder/purchaser shall pay the applicable Association a portion of the actual, reasonable and necessary expenses of maintaining the Common Areas and any storm water retention and detention basins (including, without limitation, taxes and insurance thereon) determined by multiplying such actual, reasonable and necessary expenses by a fraction, the numerator of which shall be the number of Lots owned by Grantor or each such builder/purchaser, as applicable, and the denominator of which shall be two hundred seventy-five (275) as to Country Creek Homeowners Association, as to the single-family portion of the Planned Unit Development, and which fraction, as to the commercial portion of the Planned Unit Development shall be based upon the percentage of total floor area of the improvements located in the commercial phase of the Planned Unit Development owned by each member. Nothing in this Section V.F. shall excuse Grantor or any builder/purchaser from the obligation to pay any special assessment imposed as provided in Section V.D.
- G. Uniform Rate Of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or an annual basis.
- H. Date Of Commencement Of Annual Assessments: Due Dates. The annual general assessments provided for in Section V.B shall commence as to all Lots on the first day of the month following the conveyance of the first Lot in the single-family residential portion of the Planned Unit Development as to Country Creek Homeowners Association, and to an Owner who is not the Grantor, a builder or a developer under the provisions of Section V.B. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year and may be collected at the time of the Owner's closing on his/her Lot. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the board of directors of the applicable Association. The applicable Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of that Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the applicable Association as to the status of assessments on a Lot is binding upon the applicable Association as of the date of its issuance.
- I. Maximum Annual Assessment. The annual general assessments shall not exceed Two Hundred Fifty (\$250.00) Dollars per Lot for two (2) years after the recordation of this Declaration. From and after the second anniversary of this Declaration, the annual general assessment may be increased by twenty-five (25%) percent of the previous year's assessment

without a vote of the Members. The annual general assessment may be increased by more than twenty-five (25%) percent in any year upon the vote of at least two-thirds (2/3rds) of the Members or of proxies present and voting at a meeting of the Association duly called for that purpose.

- J. Effect Of Nonpayment Of Assessments; Remedies Of The Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the maximum lawful rate of interest until paid. The applicable Association may bring an action at law against the Owner personally obligated to pay the same, foreclose the lien against the property or pursue any other remedy provided by law or in equity. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his/her Lot.
- K. Exempt Property. All Common Areas and all other property exempt from taxation by state or local governments and dedicated for public use shall be exempt from the assessments, charge and lien created herein.
- L. Subordination Of The Lien To Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on any Lot. Sale or transfer of any Lot shall not affect the assessment lien. The sale or transfer of any Lot pursuant to Mortgage foreclosure proceedings or a judgment of foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such foreclosure sale but shall not relieve such Lot from liability for any future assessments thereafter becoming due or from the lien thereafter created.
- M. Liability Of Board Members. Neither any member of the board or any applicable Association nor the Grantor shall be personally liable to any Owner, or to any other party, for the damage, loss or prejudice suffered or claimed on account of any act or omission of the applicable Association, the board, the Grantor or any other representatives or employees of the applicable Association; provided that the provisions of this Section V.M shall not limit or impair any written agreement between Grantor and any builder/purchaser.

#### VI. RIGHT OF THE TOWNSHIP RELATIVE TO COMMON AREAS AND WETLANDS AND WATERCOURSES

- A. In the event that Grantor or the applicable Association shall at any time fail to construct or maintain any portion of the Common Areas and/or maintain or preserve any portion of the Wetlands and Watercourses, in reasonable order and condition, the Township may serve written notice by certified or registered mail upon Grantor and/or the applicable Association setting forth the manner in which the applicable Association has failed to maintain the Common Areas and Wetlands and/or Watercourses in reasonable condition and said notice shall include a demand that deficiencies of maintenance be cured within a stated reasonable time period and, further, shall state the date and place of a hearing thereon before the Township Board or such other Board, body or official to whom the Township Board shall delegate such responsibility, which shall be held within the time set forth in the notice. At such hearing, the Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which the deficiencies shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said reasonable time or any extension thereof, the Township, in order to preserve natural features and any drainage, woodland, wetland or other environmental function, or passive recreational function, all consistent with the purposes for which the Common Areas and Wetlands and Watercourses are dedicated in this Declaration, may, but shall not be obligated to, enter upon the Common Areas and Wetlands and Watercourses and repair and/or maintain the same for a reasonable period of time. Such action by the Township shall not vest in the public any right to use the Common Areas and Wetlands and Watercourses. If the Township shall determine that the applicable Association is ready, willing and able to maintain the Common Areas and Wetlands and Watercourses in reasonable condition, the Township shall cease to maintain the Common Areas and Wetlands and Watercourses. If the Township shall determine that the applicable Association is not ready, willing and/or able to maintain the Common Areas and Wetlands and Watercourses in a reasonable condition, the Township may, in its

discretion, continue to maintain said Common Areas and Wetlands and Watercourses for an extended period of time. The cost of making and financing such repair and/or maintenance, the cost of notices and hearings by the Township and legal fees incurred by the Township, plus an administrative fee in the amount of up to twenty-five (25%) percent of the total of all other costs incurred, shall be paid by the applicable Association in which the Common Areas and Wetlands and Watercourses are situated, and such amount shall constitute a lien on an equal pro-rata basis as to all of the Lots within the applicable portion (single-family residential, condominium or commercial) of the Planned Unit Development. If such costs, fees and expenses have not been paid within thirty (30) days of billing to the applicable Association, all unpaid amounts may be placed on the delinquent tax roll of the Township, pro-rata, as to each Lot within the applicable portion (single-family residential, condominium or commercial) of the Planned Unit Development, and shall accrue interest and penalties, and shall be collected as and deemed delinquent real property taxes according to the law made and provided for delinquent real property taxes and the collection thereof. In the discretion of the Township, such costs, fees and expenses may be collected by suit initiated against the applicable Association, which then holds title to the portion of the Common Areas or Wetlands and Watercourses maintained by the Township. If litigation is commenced, the applicable Association shall pay all court costs and reasonable attorneys fees to the Township. The Township at the time of entering upon the Common Areas and Wetlands and Watercourses for the purpose of repair and/or maintenance, may file a notice of lien in the office of the Register of Deeds at the County of Oakland as to the affected Lots.

- B. Notwithstanding any other provision of this Agreement, Grantor reserves the right to grant easements within the Common Areas for the installation, repair and maintenance of water mains, sewers, drainage courses and other public utilities, subject to the approval of the Township, not to be unreasonably delayed or withheld, provided that such utilities shall be installed in such manner as to minimize damage to the natural features of the Common Areas, and shall be installed subject to lawful conditions imposed.
- C. Additional usages for the Common Areas may be established if approved in writing by not less than fifty-one (51%) percent of said Lot owners in the single-family residential and commercial portions of the Planned Unit Development and by not less than two-thirds (2/3rds) of the Lot owners of the Condominium portion of the Planned Unit Development, and thereafter ratified by the Township Board.
- D. It shall be the obligation of the applicable Association to maintain and preserve the Common Areas and the Wetlands and Watercourses within their respective portion (residential, commercial or condominium) of the Planned Unit Development in a manner which conforms to all applicable laws and ordinances and, insofar as possible, in a manner to insure the continued functioning of such resources. The Township shall have the right to enforce preservation of the Common Areas and Wetlands and Watercourses.

#### VII. ARCHITECTURAL CONTROL

- A. No driveway, parking area, building, dwelling, deck, patio, swimming pool, fence, wall, hedge or other improvement or structure shall be erected, placed or altered on any Lot until the following, prepared by a professional engineer or registered architect acceptable to Grantor, have been submitted to and approved in writing by Grantor:
  1. a topographic survey showing existing and proposed grades with two (2') foot contours, the location and species of all trees in excess of three (3) inches in diameter, the proposed location of each building, improvement or structure and the proposed location of drives and parking areas;
  2. construction and architectural plans including dimensioned floor plans, typical sections and all elevations, sufficient to obtain a building permit;

3. specifications setting forth the type and quality of all materials and workmanship and including a detailed finish schedule for all exterior materials, products and finishes, with actual brick, stain and shingle samples;
4. a landscaping plan showing finished grading, planting, seeding and lighting;
5. a construction schedule; and
6. any other data, drawings or materials which Grantor requests in order to review the proposed construction.

Refusal of proposed construction, locations, plans, specifications or construction scheduling may be based by Grantor upon any ground, including purely aesthetic considerations, which in the sole and uncontrolled discretion of Grantor shall be sufficient. Grantor intends to take into account the preservation of trees and the natural setting in passing upon plans, specifications and the like. After Grantor's approval is obtained, no alterations in the exterior materials or appearance, including stain, paint or roofing colors, of any building or structure nor any alteration in the landscaping plans may be made without written approval by Grantor. One (1) copy of all plans, specifications and related data shall be furnished to Grantor for its records. The Grantor may grant a builder/purchaser blanket approval of model plans and specifications and material selections which blanket approval will eliminate the need for subsequent approvals for construction by the recipient of the approval of residences built according to the approved plans and specifications.

- B. At such time as all of the Lots are sold by Grantor for all phases of the Country Creek Development and dwellings are erected thereon, or at such earlier time as Grantor may, in its sole discretion, elect, Grantor may assign, transfer and delegate to two (2) Architectural Control Committees, one (1) for the single-family residential portion of the Planned Unit Development, and one (1) for the condominium portion of the Planned Unit Development, all of Grantor's right to approve or refuse to approve plans, specifications, drawings, elevations or other matters with respect to the construction or location of any dwelling, fence, wall, hedge or other structure on any Lot in the Planned Unit Development. Thereafter, each Architectural Control Committee shall exercise all of the authority and discretion granted to Grantor in Section VII.A above relative to approving or disapproving such matters as to the applicable portion (single-family residential or condominium) of the Planned Unit Development, and Grantor shall have no further responsibilities with respect to such matters. Each Architectural Control Committee shall be comprised of up to three (3) members to be appointed by Grantor. Grantor may also transfer its right to delegate members of the Architectural Control Committees to the applicable Association. Until such event, Grantor reserves the right to appoint and remove members of the Architectural Control Committee in its sole discretion.
- C. Any submission to Grantor or the Architectural Control Committee for any approval provided for under this Declaration shall be in writing, and shall conform to Section VII.A above. The primary purpose for providing for architectural control is to ensure the proper and harmonious development of the Planned Unit Development in order to maximize the aesthetic beauty of the Planned Unit Development and its blending with the surrounding area. To this end, Grantor or the Architectural Control Committee, as the case may be, shall be deemed to have broad discretion to determine what dwellings, fences, walls, hedges or other structures will enhance the aesthetic beauty and desirability of the Planned Unit Development, or otherwise further or be consistent with the purpose for any restrictions. In no event shall either Grantor or the Architectural Control Committee have any liability whatsoever to anyone for their approval or disapproval of plans, drawings, specifications, elevations or the dwellings, fences, walls, hedges or other structures subject thereto, whether such alleged liability is based on negligence, tort, express or implied contract, fiduciary duty or otherwise. By way of example, neither Grantor nor the Architectural Control Committee shall have liability to anyone for approval of plans, specifications, structures or the like which are not in conformity with the provisions of this Declaration, or for

disapproving plans, specifications, structure or the like which arguably are in conformity with the provisions hereof.

- D. At the closing for each Lot purchased from Grantor in the single-family residential portion of the Planned Unit Development, the purchaser shall pay Grantor or, at Grantor's election, shall promise to pay Grantor, the sum of Two Hundred Fifty (\$250.00) Dollars to be placed in a fund to defray the cost of architectural control activities. Neither Grantor nor the Architectural Control Committee need hold any amount so paid in escrow or separate the amount so paid in any manner, although records shall be maintained with respect to how the amounts in the fund are applied. The fund shall be used to defray the reasonable out-of-pocket costs of Grantor or the Architectural Control Committee with respect to architectural control activities for the single-family residential portion of the Planned Unit Development, including the cost of having an architect or engineer review any submissions. Neither Grantor nor any members of the Architectural Control Committee shall be compensated from the fund for the time expended in architectural control activities. As and when Grantor or the Architectural Control Committee determines that the amount in the fund exceeds the anticipated costs of the future architectural control activities, any excess funds shall be turned over to the Country Creek Homeowners Association for use by it.

#### VIII. BUILDINGS IN DRAINAGE EASEMENTS

No building, residence or other structure shall be erected or placed within any drainage easement. No buildings may be constructed or maintained over or on any easements; provided, however, after utilities have been installed, such areas may be seeded or sodded. All other planting or lot line improvements of any type over or on said easements shall be allowed only upon prior written approval of the Grantor, and only so long as they do not interfere with, obstruct, hinder, or impair the drainage plan of the Planned Unit Development, and so long as access be granted, without charge or liability for damages, for the maintenance of the utilities, underground drainage lines so installed, surface drainage swales and/or for the installation of additional facilities.

Easements shall be and are hereby reserved to Grantor for the possible erection, maintenance, repair, alterations, improvements and replacement of subdivision entrances, walls, gates, signs and ornamental lights, and of sprinkling systems on, over and through cul-de-sacs and such lands near the entrance of the Planned Unit Development as are shown on Exhibit B.

#### IX. MAINTENANCE OF SUBDIVISION ENTRANCES, GATES, ETC.

- A. The design, color, construction type of material, on any entranceways, gates, walls, fences, lights and any other ornamental structures which Grantor or a builder/purchaser may hereafter install in the Planned Unit Development, if any, and the design and materials used in any landscaping installed on or around any of the aforementioned improvements which may be provided by Grantor, shall not be changed without the express prior written consent of Grantor, nor shall any additions be made thereto without Grantor's prior written consent. No assignment or transfer of Grantor's rights or powers made pursuant to the provisions of Section VII hereof shall give any other entity the right to approve such changes or additions, unless such right has been expressly and specifically assigned and transferred pursuant to Section X.
- B. The Planned Unit Development's entrances, gates, walls, landscaped cul-de-sacs, fences, ornamental lights and ornamental structures, if any, which may be erected by Grantor or a builder/purchaser in the Planned Unit Development, and the landscaping on or around any of the terms hereinbefore enumerated, and any public sprinkling systems installed thereon shall be maintained, repaired, replaced when necessary, and kept landscaped by the Association, all in such a manner as is consistent with the maintenance of high standards in a beautiful, private residential community, and the Owners of all Lots in the Planned Unit Development, as Members of the applicable Association, shall bear the cost of such maintenance, repair, replacement, and landscaping, which cost will become a legal obligation of the Lot Owner and a lien against the Lot owned by

any Lot Owner who has not paid the Association's assessment within thirty (30) days after such assessment has been levied.

X. ASSIGNMENT OR TRANSFER OF RIGHTS AND POWERS  
TO SUBDIVISION ASSOCIATION

Any or all of the rights, duties, responsibilities and powers, titles, easements and estates hereby reserved or given to Grantor, including the right and power to approve or disapprove any use, act, proposed action or any other matter or thing, may be assigned by Grantor or its successors to the applicable Association. Any such assignment or transfer shall be made by appropriate instrument, in writing, in which the assignee or transferees shall join for the purpose of evidencing its or their consent to the acceptance of such powers and rights, and such assignee or transferee 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 Grantor in connection with rights, powers and easements so assigned, and such instrument, when executed by such assignee or transferee, shall, without further act, release Grantor from the obligation and duties in connection therewith.

XI. USES OF THE SINGLE-FAMILY RESIDENTIAL PORTION OF THE  
PLANNED UNIT DEVELOPMENT

- A. All Lots in the single-family residential portion of the Planned Unit Development shall be used for residence purposes only, and no building of any kind whatsoever shall be erected, re-erected, moved or maintained thereon, except private dwellings and appurtenant buildings (as hereinafter provided). Such dwellings shall be designed and erected for occupation by, and shall be occupied by, one single family. A private, architecturally related and attached, side entrance garage for the sole use of the Owner or occupant of the Lot upon which a dwelling house is erected may also be erected and maintained in accordance with the terms and provisions of this Declaration. For the purposes of this Declaration, the term "family" shall mean one person or a group of two or more persons, living together and interrelated by bonds of consanguinity, marriage, or legal adoption. The term family shall also include foster children, gratuitous guests and domestic servants. Grantor may permit the occupation of a dwelling by persons not constituting a family as defined herein, provided that Grantor finds that such occupancy will not be detrimental to the purposes sought to be obtained by the restrictions set forth in this Declaration. Nothing in this Section XI.A shall be deemed to supercede, alter or impair the right of the Township to enforce its ordinances. The single-family residential portions of the Planned Unit Development are defined as Phases 1, 2, 4 and 5, shown on Exhibit B.
- B. Notwithstanding the limitations on uses set forth in Section XI.A above, Grantor hereby reserves the right for itself, its agents or sales representatives and/or an builder designated by Grantor to occupy and use any house or temporary building built in or moved onto any lot in the single-family residential portion of the Planned Unit Development as a sales office for sales of lots and/or houses, until such time that all of the lots and/or houses built in the Planned Unit Development have been sold. This provision shall not supercede the Township's authority under applicable law or ordinance.
- C. No plans for any dwelling within the single-family residential portion of the Planned Unit Development will be approved unless the proposed dwelling has the minimum square footage required from time to time by the Township of Oakland. In addition, the dwelling must have a minimum of the following square footages: for one (1) story dwellings (e.g., ranch) - one thousand nine hundred (1,900) square feet of livable floor area; for dwellings with multiple levels, the entry level shall have at least one thousand two hundred fifty (1,250) square feet of livable floor area and the entire dwelling shall have at least two thousand five hundred (2,500) square feet of livable floor area. The term "livable floor area" shall exclude garages, patios, decks, open porches, entrance porches, terraces, storage sheds and like areas, even if attached to the main dwelling. The term "livable floor area" shall include enclosed porches if the roof of the porch forms an integral part of the roofline of the main dwelling.

- D. The minimum dwelling width shall be forty-six (46') feet including attached garage. If grade, soil or other physical conditions pertaining to the Lot render such width impractical or undesirable in Grantor's judgment, Grantor may (but is not obligated to) permit the construction of a dwelling having a width of less than forty-six (46') feet.
- E. No dwelling, building or other structure shall be placed, erected, altered or located on any Lot nearer to the front, side or rear lot line than is permitted by the ordinances of the Township of Oakland from time to time in effect. Furthermore, all dwellings, buildings or other structures shall also meet the following set-back requirements:
1. the front yard set-back shall be at least forty (40') feet;
  2. the side yard set-back shall be at least ten (10') feet per side, and at least twenty (20') feet total;
  3. the rear yard set-back shall be at least thirty-five (35') feet; and
  4. the minimum set-back from any stream shall be one hundred (100') feet.
- Grantor shall have the right (but not any obligation) to permit set-backs less than those established above if in its sole judgment the grade, soil or other physical conditions pertaining to a Lot justify such a variance, except that no set-back shall be less than the minimum required by the Township of Oakland unless the Township has granted an appropriate variance.
- F. No approval by Grantor shall be valid if the structure or improvement violates any of the restrictions set forth in this Article XI of this Declaration, except in cases where waivers have been granted as provided for in Article XX.
- G. The exterior of all buildings must be primarily brick or stone (but no yellow or white brick shall be allowed). No aluminum or vinyl siding or metal windows may be used in any dwelling, building or other structure.
- H. The exterior of all dwellings and other structures must be completed as soon as practical after construction commences, and in any event within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities.
- I. All driveways shall be paved with concrete, and shall be completed prior to occupancy. No front entrance garages shall be erected or maintained, and all garages shall be attached. Grantor shall have the sole and exclusive authority to determine what constitutes a front entrance garage.
- J. No above-ground swimming pools shall be erected or maintained on any Lot.
- K. No fence, wall or hedge of any kind shall be erected or maintained on any Lot without the prior written approval of Grantor. No fence, wall or hedge shall be located nearer to any front lot line than is permitted for dwellings under Section XI.E above. No fence, wall or hedge shall be maintained or erected which blocks or hinders vision at street intersections. No chain link fences shall be permitted.
- L. All chimneys intended for live fires shall have flues lined through the entire height with standard clay lining or other fire resistant material. No trash shall be burned on any Lot.
- M. No trees measuring six (6") inches or more in diameter at ground level may be removed without the written approval of Grantor. Prior to commencement of construction, Owner shall submit to Grantor, for its written approval a plan for the preservation of trees in connection with the construction process. It shall be the responsibility of each Owner to maintain and preserve all trees measuring six (6") inches or more in diameter at ground level on his/her Lot, which responsibility includes welling trees, if necessary.

- N. All landscaping shall be completed within ninety (90) days of occupancy, weather permitting.
- O. No outside television antenna or other antenna, or aerial, saucer or similar device shall be placed, constructed, altered or maintained on any Lot, unless Grantor determines, in its sole discretion, that the absence of an outside antenna creates substantial hardship with respect to a particular Lot.
- P. Dog kennels or runs or other enclosed shelters for permitted animals must be an integral part of the approved dwelling and must be approved by Grantor and the Township of Oakland relative to the location and design of fencing. Each Owner must keep any such kennel, shelter or run in a clean and sanitary condition.
- Q. Except as specifically permitted herein, no structure shall be erected, altered, placed or permitted to remain on any Lot other than one (1) detached single-family dwelling not to exceed two and one-half (2-1/2) stories [thirty-five (35') feet] in height which may include an attached, side entrance garage. No part of any dwelling or other structure shall be used for any activity normally conducted as a business.
- R. No commercial signs, including "for rent", "for sale" and other similar signs, shall be erected or maintained on any Lot except with the written permission of Grantor or except as may be required by legal proceedings. If such permission is granted, Grantor reserves the right to restrict size, color and content of such signs. Unless otherwise specified by Grantor, any signs permitted by it shall have a black background and gold lettering, and shall not exceed the size of a normal "for sale" sign. All property identification signs, mailboxes, delivery receptacles, yard lights and the like shall be of a standard color, size and style determined by Grantor and shall be erected only in areas designated by Grantor.
- S. No structure of a temporary character shall be placed upon any Lot at any time, provided, however, that this prohibition shall not apply to shelters approved by Grantor and used by a contractor during the construction of subdivision improvements or a dwelling, although these temporary shelters shall not, at any time, be used as a residence or permitted to remain on the Lot after completion of construction.
- T. No mobile home, trailer, house or camping trailer, tent, shack, tool storage shed, barn, tree house or other similar out-building or structure shall be placed on any Lot at any time, either temporarily or permanently. Plans for a swimming pool or bath house must be specifically approved by Grantor or the Architectural Control Committee which may be established pursuant to Section VII above.
- U. Trailers, trucks, boats, aircraft, commercial vehicles, campers or other recreational vehicles or other vehicles, except passenger cars and passenger vans, shall not be parked or maintained on any Lot unless in a suitable private garage which is built in accordance with the restrictions set forth herein.
- V. No animals or fowl (except household pets) shall be kept or maintained on any Lot, and household pets shall be confined to the Lot. Pets causing a nuisance or destruction shall be restrained.
- W. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or ground on such Lot which shall tend to substantially decrease the beauty of the neighborhood as a whole or any specific area. No lawn ornaments, sculptures or statues shall be placed or permitted to remain on any Lot without the prior written permission of Grantor.
- X. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. There shall not be maintained any animals or device or thing of any sort whose normal activities or existence is in any way noxious, noisy, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the reasonable enjoyment of other property in the neighborhood.

- Y. Grantor reserves, for itself and its agents or the Country Creek Homeowner's Association, the right to enter upon any Lot for the purpose of mowing, removing, clearing, cutting or pruning underbrush, weeds or other unsightly growth, which in the opinion of Grantor detracts from the overall beauty, setting and safety of the single-family residential portion of the Planned Unit Development. Such entrance for the purpose of mowing, cutting, clearing or pruning shall not be deemed a trespass. Grantor and its agents may likewise enter upon such land to remove any trash which has collected on such Lot without such entrance and removal being deemed a trespass. The provisions of this Section XI.Y shall not be construed as an obligation on the part of Grantor or the Association to mow, clear, cut or prune any Lot, nor to provide garbage or trash removal services.
- Z. Easements and rights on, over and under the ground are hereby granted to erect, maintain and use electric, telephone and television poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone, television, gas, sewer, water or other public conveniences or utilities on, in or over the front fifteen (15') feet of each Lot, and at all locations as shown on the final Plat. These easements and rights expressly include the right to cut any trees, bushes or shrubbery, making any gradings of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. Such rights may be exercised by any public utility, so long as the benefits of such easements are equitably shared among all public utilities, but this reservation shall not be considered an obligation of Grantor to provide or maintain any such utility or service.
- AA. No Lot shall be subdivided, or its boundary lines changed, except with the written consent of Grantor and the Township under applicable ordinance and law. However, Grantor hereby expressly reserves to itself the right to replat any two (2) or more Lots shown on the Plat in order to create a modified building Lot or Lots and to take such other steps as are reasonably necessary to make such replatted Lot suitable and fit as a building site to include, but not be limited to, the relocation of easements, walkways and rights-of-way to conform to the new boundaries of said replatted Lots, subject to compliance with the statutes then regulating replatting and/or vacation, correction and revision of Plats.
- BB. No part of any structure shall be constructed or located on any Lot at an elevation which is at or below the one hundred (100) year flood plain contour as shown on Exhibit C, which contour has been determined by Giffels-Webster Engineers, Inc.
- CC. No Owner shall throw or allow to accumulate on any portion of the Common Areas, trash, refuse, or rubbish of any kind. No Owner shall dump or otherwise dispose of chemicals, motor oil, paint, gasoline or petroleum distillates in, over or within the Planned Unit Development or the sanitary or storm sewer drains serving the Planned Unit Development.
- DD. Upon the completion of a residence on any of the Lots in the single-family portion of the Planned Unit Development, 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) shall cause the Lot owned by him/her to be finish-graded and seeded or sodded and suitably landscaped as soon after completion as weather permits. All landscaping in the Planned Unit Development shall be of an aesthetically pleasing nature and plans therefore be submitted for approval pursuant to Section XI.A above. All landscaping shall be well maintained at all times. It is the purpose of this Section to cause the single-family portion of the Planned Unit Development to develop into a beautiful, harmonious, private residential area.
- EE. No laundry shall be hung for drying out of doors on any Lot.
- FF. Any debris resulting from the construction and/or the destruction, in whole or in part, of any dwelling, building or improvements on any Lot in the Planned Unit Development shall be 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, whichever occurs first), from such Lot and property in order to preserve the sightly condition of the Planned Unit Development.

- GG. No outside compressors for central air conditioning units or other similar machinery may be located other than in the rear yard and within five (5) feet of the rear wall of the residence and shall not project past the side walls of said residence so as to extend into either side yard. Any such air conditioning units or similar machinery located at the side of any residence must be concealed from public view by landscaping or a screening material approved by Grantor. No "through the wall" air conditioners may be installed on the front or side wall of any building in the Planned Unit Development.
- HH. Basketball backboards or baskets in the Planned Unit Development may be installed only in the rear or side yard.
- II. No Owner shall use or nor permit or suffer an occupant of the premises which he owns, or his or their invitees or guests, to use any B-B guns, firearms, air rifles, pellet guns, bow and arrow, sling shot, or any weapon of any kind in the Planned Unit Development.
- JJ. No Owners of any Lots shall lease and/or sublet less than the whole of any dwellings located thereon.

The provisions of this Section XI shall not apply to the condominium portion of the Planned Unit Development or the commercial portion of the Planned Unit Development.

#### XII. VIOLATIONS

Violation of any restriction or condition or breach of any covenant or agreement herein contained shall give Grantor, its successors and assigns, including the applicable Association, in addition to all other remedies provided by law, the right to enter upon the land upon which such violation or breach exists, and summarily to abate and remove, at the expense of the Owner thereof, any structure, building, thing or condition that may be, or exist contrary to the intent and meaning of the provisions thereof, and Grantor shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal. It shall be the obligation of the Lot Owner to reimburse Grantor for Grantor's removal and abatement costs and failure to do so shall create a lien against such land for the recovery of such sums. Failure by Grantor or the applicable Association to enforce any covenant or restriction herein contained shall not be deemed to be a waiver of the right to enforce such covenant or restriction thereafter.

#### XIII. AMENDMENT

- A. Grantor reserves the right, by written instrument signed, acknowledged and recorded with the Oakland County Register of Deeds, to modify, amend, restate, waive or repeal any or all of the provisions herein contained with respect to all Lots or any particular Lot within the Planned Unit Development. Any such modification, amendment, restatement, waiver or repeal may be retroactive to the date of recordation of this Declaration of Restrictions. Notwithstanding the foregoing to the contrary, if Grantor sells an entire phase of the Planned Unit Development to a single builder/purchaser, by land contract or by deed, Grantor shall not amend, modify, waive or repeal a provision with respect to all Lots or a particular Lot within the phase so sold without the consent of such builder/purchaser.
- B. This Declaration of Restrictions may be amended by a written instrument signed by the Grantor (if Grantor has any ownership interest in any portion of the Planned Unit Development), the owner of the Common Areas of the Planned Unit Development and the applicable Associations if at least eighty-five (85%) percent of the Owners of Lots within the Planned Unit Development, and the mortgagees of each such Lot, if any, have consented thereto, which instrument shall be signed, acknowledged and recorded with the Oakland County Register of Deeds; provided that an amendment, other than one which affects the Common Areas, or, which affects only one portion (single-family residential, condominium or commercial) of the Lots may be adopted if eighty-five (85%) percent of the Lot Owners of the

applicable portion of the Planned Unit Development and their first mortgagees consent. As to the commercial portion of the Planned Unit Development, the eighty-five (85%) percent requirement shall apply to the number of square feet of land within the commercial portion of the Planned Unit Development, not to the number of Lots, if any, within the commercial portion of the Planned Unit Development.

- C. The covenants, restrictions and conditions of this Declaration 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.
- D. Notwithstanding anything in this Declaration to the contrary, no amendment which reduces the Common Area, changes the boundaries of any portion (single-family residential, condominium or commercial) of the Planned Unit Development or modifies any provision of Section VI, shall be effective unless consented to in writing by Oakland Township, which consent must be recorded with the Oakland County Register of Deeds.

#### XIV. SEVERABILITY

The invalidity or unenforceability of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

#### XV. NON-WAIVER

The failure of Grantor, or the other entity to which it may have assigned or transferred its rights and powers hereunder to enforce any of the terms, provisions, covenants and restrictions of this Declaration of Restrictions, shall not constitute a waiver by Grantor, or its aforesaid assignee, of such terms, provisions, covenants and restrictions, and shall not affect or impair the right of Grantor and/or its aforesaid at any time thereafter to enforce the same.

#### XVI. RULES AND REGULATIONS

Each applicable Association, acting through its Board of Directors (or Grantor with respect to the commercial portion of the Planned Unit Development), shall have the power to adopt, amend and repeal Rules and Regulations restricting and regulating the use and enjoyment of the Common Areas within its portion (single-family residential, condominium or commercial) of the Planned Unit Development. The Rules and Regulations may supplement, but may not be inconsistent with, the provisions of this Declaration. The portion of the Planned Unit Development to which such Rules and Regulations apply shall be occupied and used in compliance with the Rules and Regulations. Copies of the Rules and Regulations shall be furnished by the applicable Association to each Owner of any Lot within the applicable portion of the Planned Unit Development upon request. Changes to the Rules and Regulations shall be made available to the affected Owners prior to the time when the same shall become effective and copies thereof shall be provided to each Member of the applicable Association upon adoption. Each Association can grant exceptions to its Rules and Regulations upon a showing of good cause. The Rules and Regulations may provide for remedial action against any Owner who violates them.

#### XVII. ENFORCEMENT

Grantor, an applicable Association or any Owner shall have the right to enforce all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration; provided that only Grantor, Owners of Lots within the single-family residential portion of the Planned Unit Development and Country Creek Homeowners Association may enforce the provisions of Section XI. Failure of Grantor, an Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed an estoppel or a waiver of the right to do so thereafter.

XVIII. BINDING EFFECT

The covenants herein contained shall be binding upon the heirs, devisees, legatees, executors, administrators, assigns and successors of the respective parties hereto, and upon all purchasers and future Owners of Lots comprising the Planned Unit Development, and shall inure to the benefit of Grantor, its successors and such entities to which it may assign any or all of the rights, privileges and powers hereby reserved and granted to Grantor.

XIX. NOTICES

Where notices or approvals are required to be given or obtained, the same shall not be effective or binding unless in writing and forwarded by certified or registered mail.

XX. DEVIATIONS BY AGREEMENT WITH GRANTOR

Grantor hereby reserves the right to enter into agreements with the Owner of any Lot or Lots (without the consent of any Association or Owners of other Lots or adjacent property) to deviate from any or all of the covenants set forth in Section XI above, provided there are practical difficulties or particular hardships evidenced by the Owner and determined by Grantor in its sole discretion 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 Lots in the Planned Unit Developments.

XXI. EXEMPTION OF GRANTOR

Nothing in these Restrictions shall limit the right of Grantor or any builder/purchaser designated by Grantor to complete excavation, grading and construction of improvements to any property, including Common Areas within the Planned Unit Development, or right to use any structure as a model home or real estate sales or leasing office within the Planned Unit Developments or to alter the foregoing or to construct such additional improvements or facilities as Grantor deems advisable in the course of development of the Planned Unit Developments so long as any Lot remains unsold. Grantor need not seek or obtain architectural approval of any improvement constructed or placed by Grantor on any property in the Planned Unit Developments owned by Grantor and as to itself may deviate from or waive, in its sole discretion, all or any of the covenants and restrictions as set forth in Section XI.

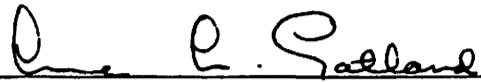
XXII. NON-LIABILITY

Grantor shall not be liable in damages to any person submitting requests for approval or to any Owner within the properties by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such requests. Each Owner shall be individually responsible for obtaining all necessary permits and consents from applicable governmental authorities, in addition to, any consent of Grantor required by this Declaration.

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CREEK INVESTMENT ACQUISITION CORPORATION, a Michigan corporation, General Partner of CREEK DEVELOPMENT ASSOCIATES LIMITED PARTNERSHIP, a Michigan limited partnership, General Partner of EAGLE CREEK DEVELOPMENT LIMITED PARTNERSHIP, a Michigan limited partnership, General Partner of EAGLE CREEK MASTER LIMITED PARTNERSHIP, a Michigan limited partnership, on behalf of said partnerships and corporation.



Notary Public, \_\_\_\_\_ County, MI  
My Commission Expires:

ANNE L. GATLAND  
Notary Public, Oakland County, Michigan  
My Commission Expires March 1, 1993

Instrument drafted by and  
when recorded return to:

Daniel M. Share, Atty.  
Barris, Sott, Denn & Driker  
211 West Fort Street, 15th Floor  
Detroit, MI 48226-3281  
(313) 965-9725

CONSENT OF FIRST MORTGAGEE

COMERICA BANK, successor-by-merger to MANUFACTURERS NATIONAL BANK OF DETROIT, a national banking association, whose address is 100 Renaissance Center, Detroit, Michigan, mortgagee of the property known as Country Creek Planned Unit Development pursuant to a Mortgage dated December 6, 1990, recorded December 28, 1990 at Liber 11686, Page 503, Oakland County Records, as amended by a First Amendment to Mortgage dated November 7, 1991 and recorded November 12, 1991 at Liber 12171, Page 774, Oakland County Records, and by a Second Amendment to Mortgage dated July 10, 1992, recorded at Liber 12909, Page 897, Oakland County Records, hereby consents to the foregoing Declaration of Restrictions and agrees that its Mortgage shall be subordinate and subject to the foregoing Declaration of Restrictions.

WITNESSES:

COMERICA BANK

Julie Ann Kall  
John D. Price III

BY W. Todd Glenn  
W. Todd Glenn  
Its Account Officer

STATE OF MICHIGAN )  
                                  )ss.  
COUNTY OF OAKLAND )

The foregoing was acknowledged before me this 28<sup>th</sup> day of December, 1992 by W. Todd Glenn, Account Officer of COMERICA BANK, a Michigan Banking Corporation on behalf of said Corporation.

Donna J. Smith  
DONNA J. SMITH  
Notary Public,  
My Commission Expires:

County, MI  
DONNA J. SMITH  
Notary Public, Oakland County, MI  
My Commission Expires May 17, 1993

CONSENT OF SECOND MORTGAGEES

JOHN M. WILLIAMS and JANETTE F. WILLIAMS, MICHAEL J. FERRANTINO, JR. and NANCY F. YOUNG, second mortgagees of the property described in Exhibit A, pursuant to a Second Real Estate Mortgage dated July 10, 1992 and recorded at Liber 12813, Page 613, Oakland County Records, hereby consent to the foregoing Declaration of Easements and Restrictions and agree that their mortgage will be subject and subordinate to such Declaration of Easements and Restrictions.

WITNESSES:

Gregory L. Wyzek  
Gregory L. Wyzek

Gerald M. Moralo, Jr.  
GERALD M. MORALO, JR.

John M. Williams  
JOHN M. WILLIAMS

Janette F. Williams  
JANETTE F. WILLIAMS

Michael J. Ferrantino, Jr.  
MICHAEL J. FERRANTINO, JR.

Nancy F. Young  
NANCY F. YOUNG

STATE OF MICHIGAN )  
COUNTY OF WAYNE ) SS

The foregoing was acknowledged before me this 18 day of December, 1992, by JOHN M. WILLIAMS, JANETTE F. WILLIAMS, MICHAEL J. FERRANTINO, JR. and NANCY F. YOUNG.

LISA D. BONNER  
Notary Public, Wayne County, MI  
My Commission Expires June 25, 1996

Lisa D. Bonner  
Notary Public, Wayne County, MI  
My Commission Expires: 6/25/96

EXHIBIT ADescription of Real Estate

Part of Section 30, T4N, R11E, Oakland Township, Oakland County, Michigan,  
more particularly described as:

Beginning at the SE corner of said Section 30; thence S 88°09'20" W 2608.26 feet along the S line of said Section 30 (Silver Bell Road) to the S 1/4 corner of said Section 30; thence S 88°08'54" W 1151.70 feet continuing along said S line (Silver Bell Road); thence N 01°36'44" W 713.95 feet; thence S 88°08'54" W 1151.27 feet to a point on the W line of said Section 30; thence N 01°34'37" W 1025.94 feet along said W line (Kern Road); thence N 82°58'32" E 1163.17 feet; thence N 02°00'41" W 1005.86 feet; thence N 82°18'46" E 2469.71 feet; thence N 82°55'49" E 1324.18 feet to the E 1/4 corner of said Section 30; thence S 01°21'20" E 3222.57 feet along the E line of said Section 30 (Adams Road) to the point of beginning and containing 291.37 acres.

10-30-400-001

Also subject to any easements, restrictions or rights-of-way recorded or otherwise.

EXHIBIT B

Open Space Plan

