

## DECLARATION OF RESTRICTIONS

CROOKSWOOD DEVELOPMENT, INC.  
A Michigan Corporation

as to

WHISPERING WILLOWS SUBDIVISION  
Recorded in Liber 173 Pages 1 thru 4

Declaration of Restrictions made this 13th day of September A.D. 1979 by Crookswood Development, Inc., a Michigan corporation, hereinafter referred to as the GRANTOR

WITNESSETH:

WHEREAS, Crookswood Development, Inc., A Michigan CORPORATION is the owner in fee simple of land situated in the Township of Avon, County of Oakland and State of Michigan being more particularly described as:

part of the North 1/2 of Section 28, T.3 N., R.11 E., Avon Township, Oakland County, Michigan, being more particularly described as follows:

Beginning at a point located N.87°34'31"E. along the North Line of Section 28 and the centerline of Hamlin Road, 366.38 ft. from the North 1/4 corner of said Section 28; thence continuing along said line N. 87°34'31"E., 531.96 ft.; thence S.02°53'10"E., 987.16 ft.; thence N.87°14'15"E., 314.56 ft.; thence S. 02°26'40"E., 172.73 ft.; thence S. 88°48'31" E., 893.41 ft.; thence S. 01°43'02" E., 175.63 ft.; thence S. 88°32'02" E., 333.14 ft.; to a point on the East line of said Section 28, said point being S. 01°43'02" E., 1413.00 ft. from the Northeast corner of Section 28; thence S. 01°43'02" E., along the East line of Section 28 and the centerline of Livernois Road, 177.50 ft.; thence N. 88°32'02" W., 1227.34 ft.; thence S. 02°26'40" E., 434.76 ft.; thence S. 68°01'34" W., 143.66 ft.; thence S. 67°47'19" W., 190.00 ft.; thence N. 64°11'29" W., 93.51 ft.; thence N. 89°30'00" W., 180.00 ft.; thence N. 83°41'40" W., 102.55 ft.; thence N. 82°41'06" W., 182.00 ft.; thence along a curve to the right of radius 340.00 ft. (long chord bears N. 07°39'05" E., 4.00 ft.) an arc distance of 4.00 ft.; thence N. 82° 00'42"W., 130.00 ft.; thence S.07°20'07" W., 168.52 ft.; thence S.71° 16'11"E., 117.10 ft.; thence along a curve to the right of radius 240.00 ft. (long chord bears S. 40°09'44"W., 102.38 ft.) an arc distance of 103.17 ft.; thence N.37°31'22" W., 135.00 ft.; thence S. 66°48'04" W., 51.95 ft.; thence N. 84°33'02" W., 51.95 ft.; thence N. 58°33'14" W., 29.18 ft.; thence N. 31°12'04" E., 107.03 ft.; thence N. 18°08'57" E., 111.01 ft.; thence N. 05°05'53" E., 111.01 ft.; thence N. 07°57'15" W., 111.01 ft.; thence N. 21°15'00" W., 193.59 ft.; thence N. 13°35'32" W., 65.30 ft.; thence N. 86°53'37" W., 125.00 ft.; thence along a curve to the right of radius 300.00 ft. (long chord bears N. 10°11'46" E.,

138.06 ft.) an arc distance of 139.31 ft.; thence N. 23°30'00" E., 179.30 ft.; thence along a curve to the left of radius 790.00 ft. (long chord bears N. 07°37'30" E., 432.19 ft.) an arc distance of 437.77 ft.; thence N. 08°15'00" W., 250.40 ft.; thence along a curve to the right of radius 200.00 ft. (long chord bears N. 39°39'45" E., 296.85 ft.) an arc distance of 334.49 ft.; thence N. 87°34'31" E., 43.00 ft.; thence N. 07°02'28" E., 60.83 ft.; thence N. 00°03'01" W., 185.15 ft. to the point of beginning and containing 51.513 acres, more or less. This plat contains 109 lots numbered 1 to 109, both inclusive, and 4 private parks known as Entree Park, Starr Park, Willow Park and Leaf Park, which property is being developed by Grantor to be known as Whispering Willows #1 (hereinafter referred to as The Subdivision).

WHEREAS, there is to be included within this development certain areas to be available for the common use and enjoyment of owners and residents of residential properties within the development, hereby designated as Common Areas, and as included and recorded in any plat of any subdivision of a portion of the tract (and any amendment to this Declaration) and

WHEREAS, it is the intent of this Declaration to create certain restrictions and conditions and to subject the lands described to the operation and obligations as contained herein; and

WHEREAS, it is the purpose and intent of this Declaration that all properties included within the Subdivision shall be held and conveyed subject to the restrictions and conditions contained herein, which restrictions and conditions shall be and constitute covenants running with the land binding upon the heirs, personal representatives, successors and assigns of the Grantor, the owners of individual lots and other parcels within the Subdivision.

NOW THEREFORE, the Grantor does hereby subject the lands described being proposed Whispering Willows to each and every one of the terms, covenants, conditions and restrictions as hereinafter set forth:

A – HOMEOWNERS ASSOCIATION:

1. Whispering Willows Owner's Association, Inc. shall consist of the owners of lots within the Subdivision and the owners of lots in subsequently recorded subdivision as described in Section D hereof. The Association shall exercise the authority and assume the obligations as set

forth in a certain Agreement for Open Space Development between Grantor and the Township of Avon to be recorded simultaneously herewith.

2. Membership in the Association shall be mandatory for each owner of a lot in the Subdivision, including the Grantor.

3. A member of the Association shall be defined as every person or entity who or which is a record owner of a fee interest in any lot under the jurisdiction of the Association but not including any owners who have sold their interest under executory land contract. During such time as such a land contract is in force, the land contract vendee shall be considered to be the member of the Association.

4. The Association shall have one class of voting membership. Members shall be all those owners as defined above, including the Grantor or its successors. Each member of the Association shall be entitled to one vote for each lot in which they hold the interest required for membership. When more than one person holds any such interest in any lot, all such persons or entities shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one lot.

#### B – COMMON AREAS:

1. The Grantor hereby dedicates and conveys to each member of the Association, as defined above, a right and easement of enjoyment in and to the Common Area as described above and as disclosed on the plat of the Subdivision, and hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area to the Association above described, free and clear of all encumbrances and liens, excepting these restrictions, easements and zoning, within ninety (90) days after the date of the recording of the plat of the Subdivision or immediately prior to the first conveyance of any lot in the Subdivision by Developer.

2. The title to the Common Area shall be vested in the Association subject to the right and easement of enjoyment in and to such Common Area by its members. Said easement shall not be personal, but shall be considered to be appurtenant to said members' lots, which easement shall pass with the title to said lots whether specifically set forth in deeds to the lots or not.

3. The Association shall have the authority to make and enforce regulations pertaining to the use and maintenance of the Common Area and all other property and easements under its jurisdiction, which regulations shall be binding upon the members of the Association and all residents of the Subdivision. The Association shall be obligated to maintain the Common Area and all other parks, commons, easements, entryways or other property within the area described in Section D which may be conveyed by the Grantor to the Association from time to time and such obligation may be enforced by any member of the Association or any property owner over which such an easement shall exist. This obligation specifically includes the maintenance of landscaping and entrance monuments.

4. The Common Area may be used for recreation, hiking, nature study, picnicking, or other uses for the benefit of its members which may be determined by the Association. Recreational facilities, including but not limited to swimming and wading pools, tennis courts, picnic shelters, grills and fireplaces, playground equipment and similar items may be constructed in the Common Area by the Association or the Grantor. All residents of properties under the jurisdiction of the Association and guests accompanying said residents shall have equal access to the Common Area 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.

5. Notwithstanding any other provision of this Declaration, the Grantor reserves the right to grant easements or other rights within the Common Area for the installation, repair and

maintenance of water mains, sewers, drainage, drainage courses, water retention, public utilities, subject to approval of the Township of Avon, provided that installation, repair and maintaining of such utilities shall be executed in such manner as to minimize damage to the natural features of the Common Area.

C – MAINTENANCE FUND:

1. All the lots of the members of the Association shall be subject to an annual charge, to be paid by the respective owners thereof to the Association in advance on the first day of January of each year commencing January 1, 1981, for the purpose of creating a Maintenance Fund.

2. The initial amount of said annual charge shall be established at the first meeting of the Board of Directors of the Association as the needs of the property may in their judgment require, but in no event shall such a charge be more than seventy-five dollars per lot per year except by the approval and consent of members of the Association representing not less than fifty-one percent of the total votes of the Association which approval and consent shall make any such additional assessment binding upon all of the owners of perperty [sic; property] in the Subdivision and owners of lots in subsequent subdivisions as stipulated in Section D hereof.

3. The Maintenance Fund shall be used for such of the following purposes as the Association shall, from time to time, determine as necessary and advisable for improving and maintaining the Common Area and any other property of the Association:

Roadways and entryways of the development; for planting trees and shrubbery and the care thereof, for the maintenance of storm retention basins on Common Areas (including the removal of silt and debris therefrom, and the control of harmful algae and erosion); for expenses incident to the construction, operation and maintenance of swimming pools, tennis courts, or similar recreational facilities located within the Common Area; for collecting and

disposing of garbage, ashes and rubbish; for employing night watchmen; for caring for vacant property including the mowing of vacant lots within the subdivision irrespective of the ownership thereof; for removing grass or weeds; for construction, purchasing, maintaining or operating any community services, snow removal on the public streets, for doing any other thing necessary or advisable in the opinion of the Association for the general welfare of the members; for expenses incident to the examination of plans, on-site inspections, and the endorsement of these restrictions or any other building restrictions applicable to said properties or for any other purposes for which the Association is incorporated.

4. All maintenance charges which shall remain due and unpaid on April first of the year in which said charges became due shall thereafter be subject to interest at the rate of seven percent per annum until paid.

5. It is expressly understood and agreed that the annual maintenance charge shall be a lien and an encumbrance on the land with respect to which said charge is made and it is expressly agreed that by acceptance of title to any of said lots the owner (not including the mortgagee as long as it is not the owner) from time of acquiring title thereto shall be held to have covenanted and agreed to pay to the Association all charges provided for herein which were then due and unpaid to the time of his acquiring the title, and all such charges thereafter falling due during his ownership thereof. A certificate in writing issued by the Association or its agent shall be given on demand to any owner or prospective purchaser liable for said charges, which shall set forth the status of such charges. This certificate shall be binding upon the parties.

6. The lien provided for herein shall be subordinated to the lien of any mortgage or mortgages. Sale or transfer of any lot shall not affect the maintenance charge lien. The sale or

transfer of any lot pursuant to a decree of foreclosure under mortgage or any proceeding in lieu of foreclosure thereof shall, however, extinguish the lien of such maintenance charges as to payments thereof which became due and prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any maintenance charges thereafter due or from the lien thereof.

7. By his acceptance of title each owner shall be held to vest in the Association the right and power in its own name to take and prosecute all suits (legal, equitable, or otherwise) which may in the opinion of the Association be necessary or advisable for the collection of such charge or charges or the enforcement of this Declaration.

**D – EXTENSION TO ADDITIONAL PROPERTIES:**

1. Should the Grantor develop or subdivide additional lands adjacent or contingent to the Subdivision, Grantor may, but shall not be obligated, subject such new development or subdivision to restrictions substantially in the form hereinbefore imposed upon the Subdivision, including requirements for the payment of maintenance charges and the requirement for mandatory membership in the Association, and said land may be incorporated with the Subdivision in one development (the Development) for the purpose of the interpretation and enforcement of these restrictions. Should the Grantor elect to exercise this option, it shall so provide in the Declaration of Restrictions applicable to said new development or subdivision. In such event, these restrictions and those applicable to the new development or subdivision shall be considered to be reciprocal negative easements thus making the restrictions applicable herein enforceable by property owners in the new land and restrictions applicable to said new land enforceable by property owners of the Subdivision. Additional lands within or adjacent to the lands described in this paragraph may be incorporated into and receive benefits and be subject to the obligations of this Declaration by the

recording of an appropriate instrument incorporating the terms hereof in whole or in part as may be determined by the Grantor.

## E – GENERAL RESTRICTIONS

### RESIDENTIAL LOTS

All of the lots in the said Subdivision shall be known as described as Residential Lots. No structure shall be erected, altered, placed or permitted to remain on any residential lot other than one single family, private dwelling with attached private garage for not less than two nor more than three automobiles. For the purposes of these Restrictions, the word “Family” shall be interpreted to mean one person or a group or two or more persons living together and interrelated by bonds of consanguinity, marriage or legal adoption and shall further extend to domestic servants. Domestic servants, provided such servants shall be reasonable in number, necessary to adequately care for and maintain the premises and provide further that such number shall not be detrimental to the purposes of these Restrictions.

NO noxious or offensive activity shall be carried on upon any lot nor shall any act be committed thereon which may be or may become an annoyance or a nuisance to the neighborhood.

### CHARACTER AND SIZE OF BUILDINGS

A. No building or other structure shall be commenced, erected or maintained nor shall any edition to or change or alteration of any structure be made, except interior alteration, until the plans and specifications showing the nature, kind, shape, height and materials, color scheme, location on lots and approximate cost of such structure, and the grading plan of the lot to be built upon, shall have been submitted to and approved in writing either by the GRANTOR or an established Architectural Control Committee and a copy of said plans and specifications having been permanently filed with said parties.



B. The GRANTOR or Architectural Control Committee shall have the right to refuse to approve any such plans or specifications or grading plans which are not suitable or desirable in its opinion for esthetic or other reasons and in so passing upon such plans, specifications and grading, it shall have the right to take into consideration the suitability of the proposed building or other structures to be built on the site upon which is proposed to erect the same and in relationship to the adjacent, neighboring properties.

C. In the event the GRANTOR or Architectural Control Committee shall have failed to approve or disapprove such plans and location within the thirty (30) days after the same shall have been delivered to the GRANTOR, then such approval shall not be required, provided that the plans and location on the lot conform to and are in harmony with existing structures in the Subdivision, these Restrictions, zoning laws applicable and the accepted Building Code in force within the community.

D. In no event, shall any dwelling be permitted on any lot in the Subdivision unless a minimum square footage of living area shall conform to the following:

- |    |                                      |   |   |
|----|--------------------------------------|---|---|
| 1. | one story Ranch Home                 | - | 1700 sq. ft. min                            |
| 2. | tri-level construction-not less than | - | 1800 sq. ft. min.<br>on the upper two level |
| 3. | two story construction-not less than | - | 2000 sq. ft. min.                           |

E. All construction upon any lot within said Subdivision shall be completed within one (1) year after the issuance of a Building Permit unless an extension of time is granted in writing by the GRANTOR or the Architectural Control Committee. The erection of any new building or repair of any building damaged by fire or otherwise shall be completed as rapidly as possible and should the owner leave such building in an incomplete condition for a period of more than six (6) months, then the GRANTOR, his agents or assigns, are authorized and empowered either to tear down and clear from the premises the incompleted portion of such structure or to complete the same at their

option and in either event, the expense incurred shall be charges against the owner's interest therein and shall become a lien upon said land and premises.

F. No custom-made or prefabricated outbuildings, whether of wood, metal or other construction, shall be permitted, either free-standing or attached to a pre-existing home on any lot within the Subdivision except that one conservatory for private use shall be permitted upon approval in writing from GRANTOR or the Architectural Control Committee.

G. Temporary buildings of any type are expressly prohibited within this Subdivision and temporary residence or "occupancy shall not be permitted in unfinished residential buildings".

H. No old or used buildings of any kind whatsoever shall be moved or reconstructed on any lot within the Subdivision.

I. All T.V. Antenna's to be installed in the Attic.

#### BUILDING LINES

No building shall be erected or constructed on any of said lots nearer than thirty-five (35) feet to the front lot line. All lines setbacks shall be in conformity with the Township Zoning Ordinances then in effect or these Restrictions, whichever shall be the more restrictive, provided however, that a variance may be obtained as to setbacks upon written approval of either the GRANTOR or the Architectural Control Committee.

#### UNDERGROUND UTILITY SERVICES

Easements and rights-of-way are hereby reserved as shown on the recorded plat.

No excavations, except for public utility purposes; no changes of \_\_\_\_\_ grade and no structures or apparatus of any kind shall be allowed within the public utility easements of this Subdivision. Except as provided herein, the owner shall have the right to make any use of the land subject to such easements which is not inconsistent with the right of the utility, provided, however,

the public utility shall have the right to trim or remove any trees, bushes or other plants of any kind within said easement and also shall have the right to trim any trees, bushes or other plants of any kind outside of said easement which, in the sole opinion of the utilities, interferes with the facilities thereto or is necessary for the installation, repair, maintenance or removal of their facilities in any public utility easement of the Subdivision. The trimming or removal of such trees, shrubs, or plants of any kind by the public utility for the purposes set forth above shall be without liability to the utility.

The original or subsequent owner in this Subdivision shall install underground, own, maintain and replace at their sole expense, the electrical service conductors and telephone facilities from the public easement to the residence. The property owner and not the utility and/or the GRANTOR herein, shall be responsible for injury to persons or property caused by the trenching, existence or backfilling of the trench.

No shrubs or foliage shall be permitted on owners property within five (5) feet of transformer enclosures or secondary connection pedestals.

The installation of all underground service conductors shall comply and conform to the National Electrical Code and to the specifications of the public utility concerned.

#### VEHICLE PARKING AND STORAGE

No trailers, boats, campers, unlicensed or commercial vehicles other than those present on business or housed within a garage, may be parked within the Subdivision at any time provided further, that no commercial vehicle lawfully within the Subdivision for business purposes shall remain for a period longer than twelve (12) hours.

### SEWAGE

A. All sewage shall be disposed of through a system of such type and installed in such manner as shall be approved in writing by the Oakland County Department of Public Health.

B. The burning or incineration of trash, garbage and other refuse outside of the dwelling unit is strictly prohibited. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers properly concealed from public view.

### ANIMALS

No chickens, other fowl, horses or livestock shall be kept or harbored on any of said lots. No animals of any kind shall be kept or maintained on any lot excepting two household pets for use by the occupants of the dwelling. Household pets shall have such care as to not be objectionable or offensive on account of noise, odor or unsanitary conditions. Dog kennels and/or runs are expressly forbidden and no animals shall be kept on the premises for any commercial purposes.

### FENCES

No fence, hedgerow or screened fence shall be erected or planted on any lot except with the written approval of the GRANTOR or the Architectural Control Committee.

### SWIMMING POOLS AND TENNIS COURTS

All swimming pools shall be constructed inground in the rear yard of a lot and shall be enclosed in such a manner as prescribed by local ordinance and/or State Law. Construction thereof shall be commenced only after obtaining the written approval of the GRANTOR or the Architectural Control Committee. All swimming pools shall be constructed in strict accordance with the Township Ordinance covering swimming pools.

Tennis Courts shall have written approval of the GRANTOR or the Architectural Control Committee.

### SIGNS

No sign of any kind shall be displayed to the public view on any lot except of one sign of not more than five (5) square feet advertising the property for sale or rent or signs used by a builder to advertise property during the construction and sale period. Such signs as are allowed must be maintained in good condition at all times and must be removed upon termination of their use.

### OBJECTIONAL SITES

A. Exterior fuel tanks shall not be permitted and shall be determined to be a nuisance per se.

B. The stockpiling and storage of building and landscape materials and/or equipment shall not be permitted on any lot except such as may be used within a reasonable length of time and in no event shall the storage of landscape materials extend for a period of more than thirty (30) days.

### ARCHITECTURAL CONTROL COMMITTEE

The exclusive control and enforcement of these restrictions shall vest in the GRANTOR until such time as construction shall be completed upon seventy-five (75%) percent of the lots in said Subdivision, at which time the residents thereof shall form a homeowners' association with an established Architectural Control Committee. The GRANTOR herein shall assign all right of enforcement under these Restrictions, including but not limited to the approval of plans, to the Architectural Control Committee upon its formation.

### TERM

The restrictions, conditions, covenants, charges and agreements contained herein shall continue in full force and effect until April 1, 1989 and shall thereafter automatically be extended for successive periods of ten (10) years each, provided however, that after ten (10) years from the date of recording hereof the owner in fee of two-thirds (2/3) or more of the lots in said Subdivision may amend, alter or revoke these Restrictions or release all or part of said lots from all or any portion thereof by execution and acknowledgment of an appropriate agreement or agreements in writing and recordation of the same in the office of the Oakland County Register of Deeds. Anything contained in this paragraph or in the declaration of restrictions to the contrary notwithstanding the paragraphs covering floodplain area restrictions that appear in this declaration of restrictions shall have no termination date or amendments unless approved by the Department of Natural Resources, State of Michigan.

### TREES AND SOIL

No trees exceeding six inches in diameter shall be removed or cut, nor shall surface soil be dug or removed from any lot for purposes other than building and landscaping of said lot, without consent in writing of the GRANTOR.

### LANDSCAPING

Basic landscaping, including finishing grading and installation of driveways, must be completed within six months after date of occupancy.

### SALES AGENCY

Anything contained herein to the contrary notwithstanding, the parties hereto and Crookwood Development, a Michigan corporation may construct and maintain a sales office,

together with a sign or signs on lot or lots of their choosing in said Subdivision until such time all of the lots in Subdivision have been sold by them.

SEVERABILITY

The voiding or invalidation of any one or more of the restrictive covenants herein by judgment or Court Order shall in no way effect any of the remaining provisions, and all of said restrictions shall remain totally and severally enforceable. All construction shall be in accordance with the Ordinance of the Township of Avon and these Restrictions and wherever a conflict shall exist, the more restrictive of the two shall apply.

Dated this 17th day of Sept. 1979.

WITNESSED BY:

\_\_\_\_\_  
William A. Walls Jr.

\_\_\_\_\_  
Marie M. Soule

SIGNED AND SEALED:

CROOKSWOOD DEVELOPMENT, INC. A  
Michigan Corporation

\_\_\_\_\_  
L.S.

By

\_\_\_\_\_  
Steven Stolaruk  
Its President

Document Drafted by:

William A. Walls, Jr.  
2216 Crooks  
Auburn Heights, MI 48057

WHEN RECORDED PLEASE RETURN TO:  
Township of Avon  
P.O. Box 250  
Rochester, MI 48063

## ACKNOWLEDGMENT

State of Michigan

County of Oakland

Personally came before me this 13<sup>th</sup> day of September, 1979, Steve Stolaruk, President of the above name corporation, to me known to be a person who executed the foregoing instrument, and to me known to be such president of said corporation, and acknowledged that he executed the foregoing instrument as such officers as the free act and deed of said corporation, by its authority.

My commission expires: May 31, 1983

Marc J. Stolaruk

Marc J. Stolaruk

Notary Public, Oakland County, Michigan

## PROPRIETOR'S CERTIFICATE

Standard Federal Savings and Loan Association, A Federal Association by John P. Ray, Executive V.P., and Gordon G. Garlick, Vice President, as proprietors, has engaged the land to be surveyed, divided, mapped and dedicated as represented on this plat and that the streets are for the use of the public that the public utility easements are private easements.

Standard Federal Savings & Loan Assoc.  
2401 Big Beaver  
Troy, Michigan 48084

Witnesses:

\_\_\_\_\_  
Tina Wharry

\_\_\_\_\_  
Gordon Garlick, Vice President

\_\_\_\_\_  
John R. Behr

\_\_\_\_\_  
John P. Ray, Executive V.P.



ACKNOWLEDGMENT

State of Michigan )

ss

County of Oakland )

Personally came before me this 19<sup>th</sup> day of September, 1979, Gordon G. Garlick and John P. Pay, Vice President and Executive V.P., respectively, of the above name corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such Executive V.P. and V.P. of said corporation by its authority.

My commission expires:

May 31, 1983

\_\_\_\_\_  
Notary Public

County, Michigan

Marc J. Stolaruk