

HAWTHORN OWNERS ASSOCIATION, INC.

BY-LAWS

ARTICLE I

NAME

The name of this corporation is Hawthorn Owners Association, Inc., herein called the Association.

ARTICLE II

PURPOSES

The purposes for which the Association is formed are as follows:

1. To exercise all of the powers of the lot owners association as described and set forth in the Declaration of Restrictions dated October 14, 1975, and recorded in Liber 6562, on Pages 319 through 331 of Plats, Oakland County Records.
2. To promote the welfare of its members by maintaining and beautifying the subdivision or area in which its members are located by enforcing building and use restrictions, by representing its members before governmental boards or bodies, by promoting social and recreational activities, and by engaging in such other activities as are incidental thereto and not forbidden by the laws of the State of Michigan and with all the powers conferred upon corporations by the laws of the State of Michigan.

ARTICLE III

MEMBERSHIP

Section 1. Definition of Membership: The owners of all lots located within the boundaries of Hawthorn Sub. No. and lots in additional subdivisions to which the scope of the restrictions described in Article II Paragraph I above shall be extended as provided in Section D of said restrictions, are eligible to be members.

Membership in the Association shall be mandatory for each lot owner in

Hawthorn Sub. No.1 and for each lot owner in such additional subdivisions to which the restrictions may be extended in accordance with said Section D, and/or their successors and assigns.

A member of the Association shall be defined as every person or entity who or which is a record Owner of a fee or undivided 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.

Section 2. Classes of Membership: The Association shall have two classes of voting membership as follows:

Class A - Class A members shall be III those owners as defined above with the exception of Orchard Lane Land Company or its successor Reyst & Company, a Michigan Co-Partnership. Class A members 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.

Class B - Class B members shall be Orchard Lane Land Company or its successor Reyst & Co., a Michigan Co-partnership. The Class B memberships shall be entitled to five votes for each lot in which the Grantor or said successor holds the interest required for membership.

## ARTICLE IV

### PAYMENT OF MAINTENANCE FEES

Section 1. Maintenance Fund: Each member shall pay to the Association the annual maintenance fee required by the applicable restrictions.

The amount of said annual charge shall be established and may be adjusted from year to year by majority vote of the 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, except by the approval and consent of members of the Association having no less than fifty-one percent of the voting rights, which approval and consent shall make any such additional assessment binding upon all of the members.

Said maintenance fund shall be used for such of the following purposes as the Association shall determine necessary and advisable:

For improving and maintaining the Commons Area and any other property of the Association, roadways and entry-ways of the development; for planting trees and shrubbery and the care thereof; for expenses incident to the construction, operation and maintenance of swimming pools, tennis courts, or similar recreational facilities located within the Commons Areas; for collecting and disposing of garbage, ashes and rubbish; for employing night watchmen; for caring for vacant property; for removing grass and weeds; for constructing, purchasing, maintaining or operating any community services, or 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 and the enforcement of the restrictions or any other building restrictions applicable to said properties or for any other purposes for which the Association is incorporated.

The annual maintenance charge shall be a lien and encumbrance on the land with respect to which the charges are made. A certificate in writing issued by the Treasurer of the Association shall be given on demand to any member liable for said charges setting forth the status of the charges. The Association shall have the power and right in its own name to take and prosecute all suits, legal, equitable, or otherwise, which may, in the opinion of the Board of Directors, be necessary or advisable for the collection of such charges and to take such other steps as it deems expedient to impose said lien upon said land.

Section 2. Special Assessments: Special Assessments may be levied by the Board of Directors for the purposes of activities within the general powers of the Association but not within the specific purposes for which the maintenance fund may be used. No special assessment shall be levied against the members of the Association without having the approval of members having at least two-thirds of the voting rights or by proxy at a regular meeting or at a special meeting of the Association called for that purpose. In no case shall special assessments exceed twenty-five dollars in any on fiscal year.

Section 3. Failure to Pay Fees or Assessments: Any member who be shall thirty days or more in default in the payment of the annual maintenance charge or dues, or in the payment of any special assessment, shall not be in good standing and shall not be entitled to vote at any meeting of the Association nor to hold office in the Association until all such delinquencies have been paid.

## ARTICLE V

### MEMBERS' MEETINGS

Section 1. Annual Meeting: The annual meeting of the Association shall be held during the month of September in each year beginning with the year 1977, on such date and time and at such place as shall be determined by the Board of Directors and specified in the notice thereof.

Section 2. Order of Business of Annual Meeting: The order of business at the annual meeting of the members shall be as follows:

- a. Roll call
- b. Reading of notice and proof of mailing
- c. Reading of minutes of last preceding annual meeting
- d. Report of President
- e. Report of Secretary
- f. Report of Treasurer
- g. Election of Directors
- h. Transaction of other business
- i. Adjournment

provided that, in the absence of any objection, the presiding officer may vary the order of business at his discretion.

Section 3. Special Members' Meetings: A special meeting of the members may be called at any time by the President or by a majority of the Board of Directors or upon the written request of at least twenty-five per cent of the members when submitted in writing to the Secretary.

Section 4. Notice of Meetings of Members: At least five days prior to the date of any meeting, written notice of the time and place of such meeting shall be mailed by first class mail to each member entitled to vote at such meeting at the address shown on the records of the Association. The notice of a special meeting shall state the matters to be considered and no action may be taken on any matter not set forth in the notice of the special meeting.

Section 5. Quorum: Fifty-one per cent of the voting memberships shall constitute a quorum for the transaction of business at any members' meeting, providing such 51% represents 51% of the total allowable votes under Article III, Section 2.

Section 6. Voting: Each member shall be entitled to vote for each lot in which he holds the interest required for membership as provided in Article III, Section 2. Vote may be in person or by proxy duly appointed by an instrument in writing filed with the Secretary of the meeting. Ballots shall be cast at the same time and not separately as to the election of all directors to be elected at the same meeting.

Section 7. Inspectors of Election: The Board of Directors shall appoint

inspectors of election, who need not be members, to determine the right of any person to vote at the meeting, to receive and count the votes cast and to determine and execute their certificate as to the results of the vote. The certificate of the inspectors of election as to the results of any vote shall be prima facie evidence of such results.

## ARTICLE VI

### BOARD OF DIRECTORS

Section 1. Number and Terms of Directors: The business, property, and affairs of the Association shall be managed by a Board of Directors composed of seven persons. Seven Directors shall be elected at the organizational meeting to serve until the annual meeting to be held in September of 1977. At this meeting four Directors shall be elected for a two year term, and three Directors shall be elected for a one year term. At each subsequent annual meeting, Directors shall be elected to fill the expiring places on the Board for two full year terms.

Section 2. Vacancies: Vacancies on the Board of Directors shall be filled by appointment made by the remaining Directors. Each person so appointed to fill a vacancy shall serve for the remainder of a term of the Director whom he replaced.

Section 3. Action by Unanimous Written Consent: If and when the Directors shall severally or collectively unanimously consent in writing to any action to be taken by the Association, such action shall be as valid corporate action as though it had been authorized at a meeting of the Board of Directors.

Section 4. Power to Elect Officers: The Board of Directors shall elect a President, a Vice President, a Secretary and a Treasurer, who shall be members of the Board of Directors. Officers shall hold office for the term of one year or until their successors are elected and qualify.

Section 5. Power to Appoint other Officers and Agents: The Board shall have the power to appoint such other officers and agents as the Board may deem necessary for the transaction of the business of the Association.

Section 6. Meetings of the Board of Directors: Regular meetings of the Board of Directors shall be held at such times and places as the majority of the Board of Directors may from time to time determine. Special meetings of the Board of Directors may be called at any time by the President or Secretary or by a majority of the Board of Directors. Directors shall be notified in writing of the time, place and purpose of special meetings of the Board at least three days

prior thereto. Any Director shall, however, be deemed to have waived such notice by Attendance at such meeting.

Section 7. Quorum: A majority of the Board of Directors shall constitute a quorum for the transaction of business.

Section 8. Compensation: No Director or officer shall receive any salary or compensation for services to the Association unless otherwise specially ordered by the Board of Directors or by By-Laws.

## ARTICLE VII

### OFFICERS

Section 1. President: The President shall be the chief executive officer of the Association and shall preside over all meetings of the Board and of the members. The President shall have general and active supervision of the business of the Association, subject, however, to the right of the Board of Directors to delegate any specific power except such as may be by statute exclusively conferred upon the President, to any other officer or Director of the Association. The President shall be ex-officio a member of all committees.

Section 2. Vice President: In case the office of President shall become vacant by death, resignation, or otherwise, or in case of the absence of the President or the President's disability to discharge the duties of that office, such duties shall, for the time being, devolve upon the Vice President who shall do and perform such other acts as the Board of Directors may, from time to time, authorize.

Section 3. Secretary: The Secretary shall attend all meetings of the members and the Board of Directors and shall preserve in books of the Association true minutes of the proceedings of all such meetings. The Secretary shall give all notices required by statute, by-law, or resolution and shall perform such other duties as may be delegated by the Board of Directors.

Section 4. Treasurer: The Treasurer shall have custody of all corporate funds and shall keep in books belonging to the Association full and accurate accounts of all receipts and disbursements. The Treasurer shall deposit all monies in the name of the Association in such depositories as may be designated for that purpose by the Board of Directors and shall disburse the funds of the Association as may be ordered by the Board, taking proper vouchers for such disbursements, and shall render to the Board of Directors at the regular meetings of the Board and at the annual meeting of the members an account of all transactions as Treasurer, and of the financial condition of the

Association. The Board of Directors may require the Treasurer to give bond for the faithful performance of duties as Treasurer.

## ARTICLE VIII

### INDEMNIFICATION

Each person now or in the future a Director or officer (and their heirs, executors and administrators) shall be indemnified by the Association against expenses, including attorney fees, reasonably incurred by them in connection with any action, suit or proceeding (whether civil or criminal) to which they may be made a party by reason of being, or having been, a Director or officer of the Association, (whether or not they continue to be a Director or officer at the time of incurring such expenses) including the cost of reasonable settlement (other than amounts paid to the Association itself) where such settlement is approved by the Association. The Association shall not, however, indemnify any Director or officer with respect to matters as to which they shall have been finally adjudged in any action, suit or proceeding to have been liable for negligence or misconduct in the performance of their duty as such Director or officer. The foregoing qualification shall not prevent a settlement by the Association or a Director prior to final adjudication when such settlement is not predicated on the existence of liability. A settlement shall not be deemed to have been predicated on the existence of liability where a payment is made or consent decree or plea of nolocontendere is entered for purposes including, but not limited to, (1) avoidance of lengthy and expensive proceedings, (2) adverse publicity harmful to the Association, or (3) unavailability, after the passage of time, of material witnesses or documentary evidence once existing and related to the subject matter of the action suit or proceeding. The foregoing right of indemnification shall not be exclusive of other rights to which such Director or officer may be entitled as a matter of law. This provision shall not operate to indemnify any Director or officer if such indemnification is for any reason contrary to law.

## ARTICLE IX

### FISCAL YEAR

The fiscal year of the corporation shall be such year as is fixed from time to time by the Board of Directors of the corporation.

## ARTICLE X

## AMENDMENTS

These By-laws may be amended, altered, changed, added to or repealed by the affirmative vote of a majority of the members entitled to vote at any regular or special meeting of the members if notice of the proposed amendment, alteration, change, addition or repeal be contained in the notice of the meeting; provided however, that no amendments may be made to these By-laws which would contradict, restrict, or otherwise conflict with any of the restrictions recorded for the Subdivisions included within the jurisdiction of this Association.

FIRST AMENDED  
DECLARATION OF RESTRICTIONS FOR  
HAWTHORN SUBDIVISIONS

This First Amended Declaration made this 25th day of May, 1977, by TRINITY LAND LIMITED (as successor to Reyst and Company, a Michigan co-partnership) 21570 Hall Road, Mt. Clemens, Michigan, and HAWTHORN OWNERS' ASSOCIATION, INC., a Michigan nonprofit corporation, of Rochester, Michigan.

W I T N E S S E T H:

WHEREAS, the Grantor is the owner of property located in Section 5, Town 3 North, Range 11 East, Avon Township, Oakland County, Michigan, described on Exhibit "A" hereto, which property is part of a tract being developed by Grantor for residential use, and

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, a Declaration of Restrictions was recorded at Liber 6562, page 319, establishing the conditions and restrictions applicable to properties within Hawthorn Subdivision No. 1 and it is the intent of this Amended Declaration to restate the restrictions and conditions and to subject the lands described on Exhibit "A" hereto to the operation and obligations as contained within said Declaration as herein amended, and

WHEREAS, it is the purpose and intent of this First Amended Declaration (and the First Amended Agreement for Planned Unit Development to be recorded simultaneous) that all properties included within Hawthorn Subdivision Nos. 1 and 2 shall be held and conveyed subject to the restrictions and conditions contained within said instruments, 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 Hawthorn Subdivisions Nos. 1 and 2;

NOW, THEREFORE, said Declaration is amended and restated to read as follows:

A – HOMEOWNERS ASSOCIATION:

1. Hawthorn Owners' Association, Inc. shall consist of the owners of lots within Hawthorn Subdivision Nos. 1 and 2 and the owners of lots in subsequently recorded subdivisions as described in Section D hereof. The Association shall exercise the authority and assume the obligations as set forth in a certain agreement between Grantor and the Township of Avon dated October 14, 1975, and recorded in Liber 6562, page 313, Oakland County records.

2. Membership in the Association shall be mandatory for each owner of a lot in the Hawthorn Subdivision Nos. 1 and 2 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 two classes of voting membership as follows:

Class A – Class A members shall be all those owners as defined above with the exception of the Grantor or its successors. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership. Where 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.

Class B – Class B members shall be the Grantor or its successors. The Class B memberships shall be entitled to five votes for each lot in which the Grantor or its successors holds the interest required for membership.

#### B – COMMON AREAS:

1. The Grantor hereby dedicates and conveys to each Class A and Class B member as defined above a right and easement of enjoyment in and to the Common Areas described above and hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Areas to the Association above described, free and clear of all encumbrances and liens, excepting these restrictions, easements and zoning, within five years from the date of this Declaration.

2. The title to the Common Areas shall be vested in the Association

subject to the right and easement of enjoyment in and to such Common Areas 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 Areas 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 Development. The Association shall be obligated to maintain in the Common Areas 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 as specifically described in Section E, paragraph 5.

4. The Common Areas 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 Areas 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 Areas 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 Areas 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 Areas.

#### 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, 19 , 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, and may be adjusted from year to year by 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 having not less than fifty-one percent of the lot owners which approval and consent shall make any such additional assessment binding upon all of the Owners of property in said Hawthorn Sub. No. 1 and No.2 and owners of lots in subsequent subdivisions as stipulated in Section D here of.

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 Areas and any other property of the Association, roadways and entry-ways 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 there from, 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 Areas; 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 subdivisions irrespective of the ownership interests; for removing grass or weeds; for constructing, purchasing, maintaining or operating any community services, snow removal on the public streets; or 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 encumbrance on the land with respect to which said charge is made and it is expressly agreed that by the acceptance of title to any of said lots the owner (not including the mortgagee as long as it is not the owner) from the 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 subordinate 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 First Amended Declaration.

#### D – EXTENSION TO ADDITIONAL PROPERTIES:

1. Should the Grantor develop or subdivide additional lands adjacent or contiguous to Hawthorn Subdivision Nos. 1 or 2, Grantor may, but shall not be obligated, subject such new development or subdivision to restrictions substantially in the form hereinbefore imposed upon those subdivisions, 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 subdivisions 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.

#### E – GENERAL RESTRICTIONS:

##### Use of Property:

1. All lots in the subdivision shall be used for residential purposes excepting lots 97, 98, 99, 100, 102, 103 and 104, and no building of any kind whatsoever shall be erected, re-erected, moved or maintained thereon except for occupation by one single family. Lots 97, 98, 99, 100, 102, 103 and 104 may upon written approval of Grantor be used for Church, School or other non

residential uses allowed under Avon Township Zoning Ordinance (or its successor). A private attached garage for the sole use of the owner, purchaser or occupant may be provided. A family shall mean one person or a group of two or more persons, living together and related by consanguinity, marriage or legal adoption. Persons thus constituting a family may also include foster children, guests and domestic servants. The Grantor may permit the occupation of a dwelling by persons not constituting a family as defined herein provided it finds in the Grantor's opinion that such occupancy will not be detrimental to the purposes sought to be obtained by these Restrictions. Such permissions shall be obtained in writing from the Grantor prior to occupancy by persons not constituting a family as defined herein.

2. Notwithstanding that which may be contained herein to the contrary, the Grantor, its agents or sales representatives may occupy and use any house built in the subdivision or a temporary building or mobile trailer as an office for sales and/or administrative purposes.

3. House trailers, mobile homes, motor homes, campers, boats or boat trailers, snowmobiles and snowmobile trailers and motorcycles and motorcycle trailers, trailers of any kind, or vehicles used for commercial purposes including, but not limited to, pickup trucks, (except while making normal deliveries) shall not be stored nor parked on any lot except within a private attached garage.

4. No lot in said subdivision may be divided. However, Grantor may approve the division of a vacant lot where a portion of said vacant lot is to be combined with an adjoining lot which thereafter shall be considered to be a part of said adjoining lot for all purposes. Such Grantor approval must in order to be valid, be in writing.

5. The Grantor preserves the right to construct, maintain, repair and/or replace entrance markers and related equipment and services adjacent to entrances to the subdivisions.

6. No use shall be made of any part of the Common Areas for the purpose of construction upon any lot in the subdivision including but not limited to the use of ingress and egress by vehicles related to construction, except with the prior written approval of the Grantor, which approval may be made subject to such assurances as Grantor may require that no damage will be done to the Common Areas as a result of access being given to and in the event any damage being done, that the person to whom such approval is given, will restore the condition of the Common Areas to the condition existing prior to the commencement of any such work.

Character Size and/or Locations of Buildings and Structures:

1. No building or other structure including swimming pools shall be commenced, erected or maintained, nor shall any addition to or change or alteration to any structure be made, except interior alterations, until the plan and specifications prepared by a competent architect showing the nature, kind, shape, height, materials, color scheme, approximate cost of such structure, location on lots and the grading plan of the lot to be built upon shall have been submitted to and approved in writing by the Grantor, and a copy of said plans and specifications as finally approved shall, if required by Grantor, be lodged with said Grantor.

2. No fence, garden wall, patio screen, dog run, pool enclosure, or other similar devices and/or structures shall be permitted until the plans and specifications thereof shall, prior to start of construction, have first been submitted in writing to the Grantor and approved by the Grantor. In approving any of the plans and specifications of the hereinabove mentioned devices and/or structures, the Grantor may require suitable screening with adequate shrubs, landscape materials or other modifications. In approving any of the above mentioned devices, the Grantor shall take into consideration the factors stated in the following paragraphs.

Yard Enclosures:

A dog run may be approved subject to all the above, provided said dog run is attached to the rear of the main structure, does not extend beyond the side yard building lines of the main structure, and does not exceed 54 inches in height.

Patio screens may be approved subject to all of the above, provided that said patio screen is attached to the rear of the main structure, does not exceed six feet in height, 16 feet in depth and 32 feet in width. In any event, no fence shall be permitted in the front yard or in the side yard except an ornamental fence not exceeding three feet in height. The front and side yards shall include all of that area from the front lot line back to the rear corner of the building thence perpendicular to the side of the house (or garage), to the lot line.

Swimming Pools:

Swimming pools are considered structures as defined in Paragraph 1 above. Only in-ground pools will be approved in Subdivisions. Above-ground swimming pools will not be permitted. Above-ground pools are defined as being swimming pools which project 18 inches or more above grade on any side.

Children's pools having retaining walls no higher than 18 inches

from ground level to the top edge of the retainer and covering no more than 125 square feet of ground surface shall be considered to be wading pools and not above-ground pools. Such pools shall be a type that can be readily emptied, may not require filtering equipment and may only be used during the period from May 1<sup>st</sup> to October 1<sup>st</sup>.

3. The Grantor 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 aesthetic 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 structure to be built to the site upon which it is proposed to be erected. It is understood and agreed that the purpose of this paragraph is to cause the platted lands to develop into a beautiful, harmonious, private, residential area, and if a disagreement on the points set forth in this paragraph should arise, the decision of the Grantor shall control.

4. In the event Grantor shall have failed to approve or disapprove such plans and location within thirty days after the same shall have been delivered to the Grantor, then such approval will not be required provided the plans and location on the lots conform to these restrictions and applicable zoning laws and provided that the plans and location on lot are harmonious with existing structures.

5. In any event, with or without the approval of the Grantor, no dwelling shall be permitted on any lot in the subdivision unless: in the case of a one-story building the ground floor living area shall not be less than 1450 square feet; in the case of a one and one-half story building the ground floor living area shall not be less than 1000 square feet and second floor shall not be less than 600 square feet; in the case of a multilevel building the first and second level living area shall not be less than 750 square feet each; and in the case of a two story building the ground floor area shall not be less than 750 square feet and the second floor shall not be less than 750 square feet. All garages must be fully enclosed and attached to the dwelling and shall not be included in computing square footage.

#### Building Lines:

No building on any of said lots shall be erected nearer than thirty feet to the front lot line; or nearer than ten feet to a single side lot line with a total of twenty (20) feet to be allowed for both side lots; or nearer than thirty (30) feet to the side street lot line on any corner lot. No building on any of said lots shall be erected nearer than forty (40) feet to the rear lot line except for lots bordering on land dedicated for open space purposes which shall not be

nearer than thirty (30) feet from such open space.

Animals:

No chickens, other fowl, horses or livestock shall be kept or harbored on any of the said lots or Common Areas. No animals shall be kept or maintained on any lot except household pets for use by the occupants of the dwelling. No animals shall be kept on the premises for any commercial use. Household pets shall have such care as not to be objectionable or offensive on account of noise, odor or sanitary conditions. Animals may be declared nuisances by Grantor and must be removed within thirty days if so requested in writing by the Grantor or its authorized representatives.

Signs:

No signs or billboards shall be placed or maintained on any lot except one sign advertising the lot, or house and lot, for sale or lease and having not more than six square feet of surface and the top of which shall be three feet or less above the ground; provided, however, such other signs may be erected and maintained on lots as are permitted by written consent of the Grantor.

Easements:

Easements and rights of way are hereby reserved as shown on the recorded plat. In addition, easements and rights of way are reserved in and over a strip of land six feet in width along all rear, front and side lot lines wherever it may be deemed necessary for the installation or maintenance of telephone or electric poles, lines or conduits; sewer; gas lines; water mains; for drainage purposes; or for the use of any other public utility deemed necessary or advisable by Grantor. The use of all or a part of such easements and rights of way may be granted or assigned at any time hereafter by the Grantor to any person, firm, governmental unit or agency or corporation furnishing any such services.

Refuse:

No refuse pile or other unsightly or objectionable materials shall be allowed on any of said lots unless the same shall be properly concealed. Refuse, ashes, building materials, garbage and debris of any kind shall be cared for in such a manner as not to be offensive to neighboring property owners. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

#### F – ASSIGNMENT OF GRANTOR' S RIGHTS:

Grantor, by appropriate instrument in writing may designate a person, firm, or corporation to perform such of its duties and obligations as it shall specify which designation shall be revocable at the will, whim or caprice of Grantor. Grantor may at any time assign all or part of its rights, privileges and duties of supervision and control in connection with these restrictions which are herein reserved to the Grantor, to the Association and upon the execution and recording of appropriate instruments of assignment by the Grantor, the said Association shall thereupon have and exercise all the rights relating to those parts of the restrictions which have been assigned by the Grantor and the Grantor shall be fully released and discharged from further obligations and responsibilities in connection therewith.

#### G – VIOLATIONS:

1. With respect to said subdivisions, violation of any restrictions or condition or breach of any covenant or agreement herein contained shall give the Grantor, in addition to all other remedies provided by law, the right to enter upon the land as to which such violation or breach exists, and summarily to abate and remove at the expense of the owner thereof any item which has been erected, or any structure, sign, fence, thing or condition that may be or exist contrary to the intent and meaning of the provisions hereof, and the Grantor shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal.

2. Grantor, its successors or assigns, shall not be liable for damages to any person submitting plans for approval or to any owner or owners of land covered by this instrument by reason of mistake in judgment, negligence or nonfeasance of itself, its agents or employees arising out of or in connection with the approval or disapproval or failure to approve any plans or specifications, the enforcing or failure to enforce any of the restrictions herein contained, or the doing or failure to do any act which the Grantor is empowered to perform hereunder.

#### H – TERM OF RESTRICTIONS:

All the restrictions, conditions, covenants, charges and agreements contained herein shall continue in force until January 1996, and shall automatically be continued thereafter for successive periods of twenty years each, provided, however, that after January 1, 1996, the owners of property representing not less than two thirds of the total votes of the Association may amend these restrictions by written instrument executed by or on behalf of said owners and recorded in the office of the Register of Deeds for Oakland County.

## I – SEVERABILITY:

Each restriction contained herein is intended to be severable and in the event that any one covenant is for any reason held void, it shall not affect the validity of the remaining covenants and restrictions.

## J – MISCELLANEOUS:

It is the intent of this Restated Declaration that subsequent to the execution hereof, Trinity Land Ltd., a Michigan corporation shall be assigned all rights, privileges and duties of supervision and control reserved to the Grantor in the original Declaration it being intended by virtue hereof to assign the rights of Grantor as provided in Section F of the Declaration.

Additional lands within or adjacent to those lands described in Section D may be incorporated into the Development 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. To the extent there may be any inconsistency between this First Amended Declaration of Restrictions and the original Declaration of Restrictions as recorded for Hawthorn Subdivision No. 1, the terms of this First Amended Declaration of Restrictions shall not apply to lots heretofore conveyed by Reyst and Company to any person, but shall be binding upon any lot subsequently conveyed and any lot, within Hawthorn Subdivision No. 2 or any subsequently recorded subdivision or other development which is expressly made subject to the terms and conditions hereof.

The lands described on Exhibit A are also subject to a separate Agreement for Planned Unit Development as recorded in Liber 6562, Page 313, Oakland County Records, and a First Amended Agreement for Planned Unit Development, recorded in Liber \_\_\_\_\_, Page \_\_\_\_\_, Oakland County Records, which create certain limitations and restrictions upon the use of said lands.

IN WITNESS WHEREOF, the Grantor, Reyst and Company and the Association have executed this First Amended Declaration on the date stated above.

REYST AND COMPANY, a Michigan co-partnership

By: \_\_\_\_\_  
Raymond S. Kalinowski  
Agent and Attorney-in-Fact

TRINITY LAND LTD.

By: \_\_\_\_\_

HAWTHORN OWNERS' ASSOCIATION, INC.,  
a Michigan nonprofit corporation

By: \_\_\_\_\_  
Raymond S. Kalinowski

Its: Vice President