

**BUILDING AND USE RESTRICTIONS FOR
ASHLEY FARMS SUBDIVISION No. 5**

**RESTATED DECLARATION OF EASEMENTS, COVENANTS AND BUILDING
AND USE RESTRICTIONS FOR ASHLEY FARMS SUBDIVISION NOS. 1, 2, 3, 4 and 5**

WHEREAS, Ashley Farms Associates L.L.C., a Michigan limited liability company, whose address is 32605 West Twelve Mile Road, Suite 350, Farmington Hills, MI 48334 (the "Declarant"), has recorded a certain Declaration of Easements, Covenants and Building and Use Restrictions for Ashley Farms Subdivision No. 1 dated May 8, 1997 and recorded on May 15, 1997 in Liber 7457, Pages 811 through 838, Macomb County Records, as amended by the First Amendment to Declaration of Easements, Covenants and Use Restrictions for Ashley Farms Subdivision Nos. 1 and 2, dated October 24, 1997 and recorded on November 18, 1997 in Liber 7734, Pages 292 through 298, Macomb County Records, as amended by the Restated Declaration of Easements, Covenants and Restrictions for Ashley Farms Subdivision Nos. 1, 2 and 3 dated January 28, 1998, and recorded January 28, 1998, in Liber 7834, Pages 224 through 256, Macomb County Records and as amended by the Restated Declaration of Easements, Covenants and Building and Use Restrictions for Ashley Farms Subdivisions 1, 2, 3 and 4 dated August 9, 1999 in Liber 9056 Pages 21 through 84 (collectively the "Original Declaration");

WHEREAS, the Original Declaration applies to Ashley Farms Subdivision No. 1, a subdivision established pursuant to the Plat thereof as recorded in Liber 121 of Plats, Pages 15 through 23, Macomb County Records; and to Ashley Farms Subdivision No. 2, a subdivision established pursuant to the Plat thereof as recorded in Liber 123 of Plats, Pages 46 through 49,

Macomb County Records; and to Ashley Farms Subdivision No. 3, a subdivision established pursuant to the Plat thereof as recorded in Liber 125 of Plats, Pages 31 through 34, Macomb County Records, and to Ashley Farms Subdivision No. 4, a subdivision established pursuant to the Plat thereof as recorded in Liber 139 of Plats, Pages 26 through 30, Macomb County Records.

WHEREAS, the Declaration permits the Declarant to submit additional lands to the Declaration and permits the owners of lots in such lands to become members of the Association of Homeowners created pursuant to the Declaration;

WHEREAS, the Declarant has created a subdivision to be known as Ashley Farms Subdivision No. 5, by the recording of a Plat in Liber 141, Pages 41 through 46, Macomb County Records ("Ashley Farms Subdivision No. 5");

WHEREAS, the Declarant desires to subject Ashley Farms Subdivision No. 5 to easements, covenants, restrictions, charges and liens set forth in the Original Declaration;

WHEREAS, the Declarant desires to restate the Original Declaration to apply to all five subdivisions, which are described in Exhibit "A" attached hereto;

WHEREAS, the Declarant may, at some future time, plat additional subdivisions of land adjacent to the Subdivisions and subject the land so platted to the easements, covenants, restrictions, changes and liens set forth herein;

NOW THEREFORE, in consideration of the mutual benefits to be derived by the Declarant, its successors and assigns, and all intending purchasers and future Owners of the various Lots comprising the Subdivisions, the Declarant, for itself, its successors and assigns, does hereby publish, declare and make known to all intending purchasers and future Owners of the Lots comprising the

Subdivisions, that the same will and shall be used, owned, held and/or sold expressly subject to the following conditions, easements, covenants, restrictions and easements 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 Lots in the Subdivisions and on their respective heirs, personal representatives, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. Definition of Terms.

The words and phrases below are defined as follows:

- (a) "Association" shall mean and refer to Ashley Farms Homeowners' Association, a Michigan nonprofit corporation, its successors and assigns;
- (b) "Builder" shall mean and refer to any person or entity who acquires a Lot for the purpose of engaging in and does engage in the business of constructing residential buildings for the purpose of resale and not for his own use;
- (c) "Bylaws" shall mean and refer to the bylaws of the Association;
- (d) "Common Areas" shall mean those areas of land within the Subdivision (including the improvements thereto) now or hereafter owned by the Association for the common use and enjoyment of the Owners. The Subdivision shall initially have as Common Areas the easement of the Van de Venne Drain as shown on the Plat;

- (e) "Declarant" shall mean and refer to Ashley Farms Associates L.L.C., a Michigan limited liability company and its successors and assigns;
- (f) "Declaration" shall mean and refer to this Restated Declaration of Easements, Covenants and Building and Use Restrictions and any amendments as recorded in the office of the Macomb County Register of Deeds, State of Michigan;
- (g) "Lot" shall mean and refer to any numbered lot shown on the recorded plat of the Subdivision;
- (h) "Member" shall mean and refer to those persons entitled to membership in the Association, as provided in this Declaration;
- (i) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Subdivision. When more than one person or entity has an interest in the fee simple title to a Lot, the collective interest of all such persons or entities shall be considered to be that of a single Owner. If any Lot is sold on a land contract, the land contract purchaser shall be considered the Owner. Those persons having any interest in a Lot merely as security for the performance of an obligation are not considered to be Owners;
- (j) "Plat" shall mean and refer to the plat of the Subdivision, recorded or to be recorded in the office of the Macomb County Register of Deeds; and
- (k) "Subdivision" shall mean and refer to Lots 1 through 78, inclusive, of Ashley Farms Subdivision No. 1, Lots 79 through 117, inclusive, of Ashley Farms Subdivision No. 2, Lots 118

through 139, inclusive, of Ashley Farms Subdivision No. 3, Lots 140 through 194 inclusive, of Ashley Farms Subdivision No. 4, and Lots 195 through 236, inclusive of Ashley Farms Subdivision No. 5.

ARTICLE II

ESTABLISHMENT AND DEDICATION

Section 1. Establishment of Nonprofit Corporation.

There is hereby established an association of Owners to be known as the Ashley Farms Homeowners' Association. The Association shall be incorporated and organized at any time not later than sixty (60) days after the Plat of Ashley Farms Subdivision No. 1 is recorded. The Association shall be organized as a nonprofit corporation for a perpetual term under the laws of the State of Michigan and shall have such powers as are enumerated in this Declaration as well as those set forth in the corporate Articles and Bylaws for the Association.

ARTICLE III

EASEMENTS

Section 1. Utility Easements.

The Declarant hereby dedicates and reserves the following easements:

- (a) Easements for the installation, maintenance, repair, replacement, modification and/or removal of utilities, underground television cable, sanitary and storm sewer lines, water mains, drainage lines, surface drainage swales and any other improvements which would serve the

Subdivision, are shown on the Plat, in, on, under or over strips of land in width as designated on the Plat.

(b) Private easements for public utilities are granted and reserved as shown on the Plat.

(c) The easement for the Van de Venne Drain is shown on the Plat. No fences, pools or other structures shall be constructed within this easement.

No buildings or structures may be constructed or maintained over or on any easements; provided, however, that after the aforementioned utilities have been installed, planting, fencing (where permitted), or other lot line improvements shall be allowed, so long as they do not violate the provisions of this Declaration, including, but not limited to subsection (c) above, 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, drainage lines and/or additional facilities.

Section 2. Entryway and Signage.

Easements for the installation, maintenance, replacement, modification and/or removal of landscaping, signage and lighting are shown on the Plat. The signs or any replacement sign(s) shall bear the name "Ashley Farms" in prominent letters. It shall be the responsibility of the Association to maintain and illuminate any and all landscaping, signage and lighting installed by Declarant.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership.

Every Owner shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of a Lot.

Section 2. Board of Directors.

The Board of Directors of the Association shall be comprised of at least three (3) and no more than five (5) persons appointed by the Declarant which persons may be employees, officers, agents or equity owners of the Declarant and need not be Owners or Builders. The Declarant shall continue to appoint all members of the Board of Directors until the First Annual Meeting of the Association, which shall occur no later than thirty (30) days after the date upon which ninety-five (95%) percent of the Lots in this Subdivision and all other subdivisions added to this Declaration by the Declarant are owned by persons other than the Declarant or Builders.

The Declarant shall have the right, but not the obligation, to call a special meeting of the Members of the Association for the purposes of electing one (1) or more Owners other than the Declarant's representatives to serve as directors of the Association. The number of the directors so elected, if any, shall be solely in the discretion of the Declarant.

Section 3. Voting Rights.

Each Owner shall be entitled to one vote for each Lot owned. When more than one person or entity owns an interest in a Lot, all such persons shall collectively be Members and vote for such Lot shall be exercised by the designated representative of the Co-Owners as they shall determine.

The name of the designated representative shall be provided to the Association in writing at least ten (10) days prior to any meeting at which said designee intends to vote. If notice of a designated representative is not properly given, the vote related to a Lot will be suspended in the event more than one person seeks to exercise said vote.

Section 4. Adoption of Bylaws.

The Association shall adopt Bylaws for the purposes of providing for the election of officers and directors, the conduct of meetings and the governance of the Association, which shall comply with all requirements of the Michigan Nonprofit Corporations Act.

ARTICLE V

COVENANT FOR ASSOCIATION ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments.

Each Owner of a Lot, by acceptance of a deed or execution of a land contract therefor, whether or not it shall be so expressed in such deed or land contract, is deemed to covenant and agree to pay to the Association: (1) annual general assessments and (2) special assessments. Such assessments shall be established and collected as hereinafter provided. The general and special assessments, together with interest thereon at the highest rate permitted by law, collection costs, including reasonable attorney's fees, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest thereon at the highest rate permitted by law, collection costs, including reasonable attorney's fees, shall also be the personal obligation of all persons who were the Owners of such Lot at the time such

assessment fee fell due. The obligation of the Declarant and each Builder as to assessments is separately set forth in Section 3 of this Article.

Section 2. Purpose of Assessments.

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, welfare, common benefit and enjoyment of the Owners in the Subdivision, and in particular for the improvement and maintenance of the Common Areas now or hereafter owned by the Association, for the payment of taxes and special assessments relating to the Common Areas and facilities thereon and other property under the control of the Association, including any subdivision entrances; for planting and maintenance of trees, shrubs and grass; for the maintenance of median islands dedicated to the road authority; for construction, operation and maintenance of recreational facilities; for caring for vacant Lots; for maintaining drainage facilities which service the Subdivision; for providing community services; for obtaining insurance for the protection of the Owners; for maintaining, illuminating and replacing the entryway sign, monument wall and landscaping; for maintaining and replacing street signs not maintained or replaced by the road authority; and for establishing and maintaining appropriate reserves for those purposes.

Section 3. Rate of Assessment.

Both the general and special assessments shall be set by the Board of Directors at a uniform rate for all Lots. Notwithstanding anything to the contrary contained herein or elsewhere in this Declaration, no assessment shall be levied against a Lot owned by the Declarant or any Builder except that Builders shall be assessed in the same manner as any other owner five (5) years after the date of the recording of the Plat.

Section 4. Maximum Annual Assessment.

The annual assessments shall not exceed the following amounts:

- a. Until January 1 of the year immediately following the first conveyance of a Lot to an Owner, excluding Builders, the maximum annual assessment shall not exceed One Hundred (\$100.00) Dollars per Lot;
- b. From and after January 1 of the year immediately following the first conveyance of a Lot to any Owner, excluding Builders, the maximum annual assessment may be increased each year without a vote of the members by an amount of not more than ten (10%) percent of the assessment for the previous year; and
- c. From and after January 1 of the year immediately following the first conveyance of a Lot to an Owner, excluding Builders, the maximum annual assessment may be increased by an amount in excess of ten (10%) percent per year only by a majority of the Members or of proxies entitled to cast votes, at a meeting of the Association duly called for that purpose.

Section 5. First Assessment.

Upon purchasing any Lot from a Builder or the Declarant, an Owner other than a Builder shall be liable for the assessment for the year in which the Lot is purchased, which shall be pro-rated to the date of closing and payable upon closing. Such Owner shall also be liable for a one time assessment of One Hundred (\$100.00) Dollars for working capital, which shall be payable upon closing to the Association.

Section 6. Special Assessments For Acquisitions and Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy against each Owner, 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 acquisition of land or easements to be added to the Common Areas, the construction, reconstruction, repair or replacement of any improvement upon the Common Areas and other areas under the control of the Association, including subdivision entrances. Any special assessment shall have the consent of Members or of proxies entitled to cast a majority of the votes at a meeting duly called for that purpose.

Section 7. Notice and Quorum For Actions Authorized Under Sections 4 and 6.

Written notice shall be sent to all Members not less than fifteen (15) days nor more than thirty (30) days in advance of any meeting called for the purpose of taking any action authorized under Sections 4 or 6 of this Article. At the first such meeting called, the presence of Members or of proxies entitled to cast forty (40%) percent of the votes 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 ($\frac{1}{2}$) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Notice of Annual Assessments and Due Date.

The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period and determine whether the annual assessment will be payable on a monthly, quarterly, semi-annual or annual basis. 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. The Association, shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 9. Effect on Nonpayment of Assessment; Remedies of the Association.

The Association may charge an administrative fee of Fifteen (\$15.00) Dollars per month to be added to any assessment not paid within thirty (30) days after the due date. The Association may bring an action against the Owners personally obligated to pay the same or foreclose the lien against the Lot. The lien may be foreclosed in the same manner as provided under Michigan law for foreclosure of a mortgage by judicial action or by advertisement. The Association may collect from the Owner its costs in preparing and recording the lien, discharging the lien, and all of its costs related to the foreclosure, including, but not limited to actual attorney fees. Each Owner acknowledges that this Declaration contains a power of sale permitting foreclosure by advertisement without hearing. No Owner may waive or otherwise avoid liability for the assessments by non-use of the Common Areas or abandonment of his Lot.

Section 10. Exempt Property.

All Common Areas, outlots and all other property exempt from taxation by state or local government or dedicated for public use, shall be exempt from the assessment, charge and lien created herein.

Section 11. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and to any other contractual lien as to Lots owned by the Declarant. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure shall extinguish the lien but not the obligation for payment of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment becoming due after such sale or from the lien thereof.

ARTICLE VI**ARCHITECTURAL REVIEW****Section 1. Architectural Review Committee.**

No building, fence, wall, deck, swimming pool, outbuilding, drainage structure or other structure, or exterior improvement shall be commenced, erected, or maintained on any Lot, nor shall any exterior addition to or change or alteration therein or change in the exterior appearance thereof be made until the plans and specifications showing the kind, size, shape, height, colors, materials, topography and location of the same on the Lot shall have been submitted to and approved in writing by an architectural review committee (the "Committee"). The original installation of landscaping on any Lot shall also be subject to the prior review and approval of the Committee. The Committee shall be composed of three (3) persons appointed by the Declarant. Committee members are not required to be Members of the Association, and may be employees, officers, directors, agents or affiliates of the Declarant. Each member of the Committee shall serve until he resigns or is replaced by a

subsequent appointee. The Declarant may delegate or assign its power of appointment of Committee members to its successors, assigns, or the Association. Neither the Declarant nor the Committee shall have any liability whatsoever for the approval or disapproval of any plans or specifications.

Section 2. Preliminary Plans.

Preliminary plans may first be submitted to the Committee for preliminary approval.

Section 3. Plans and Specifications.

Plans and specifications for final approval by the Committee shall include the following:

- (a) Complete plans and specifications sufficient to secure a building permit in the City of New Baltimore including a dimensioned plot plan showing the Lot and placement of all improvements;
- (b) Front elevation, side elevation and rear elevation of the building, plus elevations of any walls and fences;
- (c) A perspective drawing, if deemed necessary by the Committee, to interpret adequately the exterior design;
- (d) Data as to size, materials, colors and texture of all exteriors, including roof coverings and any fences and walls;
- (e) One set of blueprints to be left with the Committee until construction is completed;
- (f) A landscape plan showing the location, size and landscape materials; and
- (g) Any other data, drawings or materials which the Committee requests in order to fulfill its function.

Section 4. Compliance With Building and Use Restrictions.

No approval by the Committee shall be valid if the structure or improvement violates any of the restrictions set forth in Article VII of this Declaration, except in cases where waivers have been granted as provided for in the said Article.

Section 5. Disapproval of Plans or Improvements.

The Committee may disapprove plans because of non-compliance with any of the restrictions set forth in Article VII of this Declaration, or because of dissatisfaction with the grading and drainage plan, the location of the structure on the Lot, the materials used, the color scheme, the finish, design, proportion, shape, height, style or appropriateness of the proposed improvement or alteration or because of any matter or thing, which, in the judgment of the Committee, would render the proposed improvement or alteration inharmonious with, or out of keeping with, the objectives of the Committee, the Subdivision or with improvements erected or to be erected on other Lots in the Subdivision, including purely aesthetic considerations.

The Committee shall not be liable for the approval or disapproval of any plan.

Section 6. Approval Time Schedule.

If the Committee fails to approve or disapprove plans within thirty (30) days after proper submission, then such approval will not be required, but all other limitations, conditions and restrictions set forth in the Declaration shall apply and remain in force as to such plans.

Section 7. Committee Approval.

Committee approval shall be deemed given if the plans and specifications submitted for approval are marked or stamped as having been finally approved by the Committee or an approved

form designating the specific plans and specifications for approval and are dated and signed by two (2) members of the Committee who were validly serving on the Committee on the date of such approval.

Section 8. Guidelines.

The Committee may, but shall not be required to, adopt guidelines for its approval process. The guidelines, if adopted, may include discussion of aesthetic standards to be utilized by the Committee in approving plans and specifications, preferred materials, preferred styles of residences, and other matters which will assist Owners seeking Committee approval. The guidelines, if adopted, will be intended solely for the purposes of illustrating and explaining current Committee standards. The guidelines shall not be construed to create any obligation on the part of the Committee to approve or reject any specific plan or specification or to otherwise modify or diminish the discretion of the Committee under this Article.

Section 9. Subcommittees.

The Committee may appoint such subcommittees as it deems appropriate and useful and may appoint Members to such subcommittees as it desires.

Section 10. Review Fee.

The Committee may charge a review fee of a maximum of One Hundred (\$100.00) Dollars to any Builder or Owner for the purposes of reviewing plans for the construction of a residence. The fee may not be utilized for the purposes of paying salaries to any members of the Committee but shall be utilized exclusively for the purposes of reimbursing actual expenses of the Committee, including, but not limited to, professional review fees of independent consultants.

Section 11. Inspection by the Committee.

The Committee or its representatives shall have the right to enter onto any Lot and into any house being constructed on a Lot during the course of construction of the house for the purposes of observing the construction of the house and the materials being utilized.

ARTICLE VII**BUILDING AND USE RESTRICTIONS FOR THE SUBDIVISION****Section 1. Use of Lots.**

All Lots shall be used for single family residential purposes only and no building of any kind whatsoever shall be erected, re-erected, moved or maintained thereon except one single family dwelling house and appurtenant attached structures on each Lot as hereinafter provided. Each house shall be designed and erected for occupancy by a single private family. Lessees of any Lot shall be subject to the terms and conditions of this Declaration, the Bylaws and all rules and regulations promulgated pursuant to this Declaration and the Bylaws, all of which shall be incorporated into the lease of any Lot by reference, and any violation of the same by a lessee shall be deemed to be a violation of the same by a lessee shall be deemed to be a violation by the lessor-Owner and subject that Owner to the same penalties and sanctions as if the Owner himself violated the Declaration, Bylaws or any rules and regulations.

Section 2. Character and Size of Buildings.

No dwelling shall be permitted on any Lot unless, in the case of a one-story building, the living area thereof shall be not less than one thousand five hundred (1,500) square feet; in the case of a two-

story or one-and-one-half story building, the living area thereof shall be not less than one thousand nine hundred (1,900) square feet; and in the case of a quad-level or tri-level building, the living area thereof shall be not less than one thousand nine hundred (1,900) square feet. No building greater than two (2) stories shall be constructed, which shall not be deemed to include a walk-out basement as a story. All computations of square footage for determination of the permissibility of erection of residences under this section, shall be exclusive of basements, attics, utility rooms, garages, porches or similar areas which are not normally classified as living areas. A private attached garage for the sole use of the occupants of the Lot upon which the garage is erected must also be erected and maintained. No garage shall provide space for less than two (2) automobiles. Garage doors must be solid colors which are harmonious with the remainder of the dwelling.

Section 3. Minimum Yard Requirements.

No building on any Lot shall be erected nearer than:

- (a) Twenty-five (25) feet from the front lot line; nor
- (b) Five (5) feet from the side lot line with total side yards of not less than fifteen (15) feet; nor
- (c) Thirty (30) feet from the rear lot line.

For the purposes of corner lots, each lot line abutting a street shall be deemed a front lot line. Approval of a variance by the Committee and the City of New Baltimore permitting front, rear or side yards smaller than the above minimums shall be deemed a valid waiver of this restriction.

The Committee shall not approve the use of any elevations which are substantially similar to elevations approved for any Lot within two hundred (200) feet of any lot line and on the same street as the proposed construction. Variety in colors or building materials shall be used for homes on adjacent Lots so as to avoid an appearance of repetition.

Section 5. Exterior Surfaces of Dwellings.

The visible exterior walls of all dwelling structures shall be made of brick. Vinyl, fieldstone, ledge rock, stucco, wood, textured wood or cut stone may also be used, so long as any of these materials alone, or in combination, do not exceed fifty (50%) percent of the total of all visible exterior walls. The Committee may grant such exceptions to this restriction as it deems suitable. The use of aluminum, asphalt, cement block, cinder, slag, or plywood (unless finished in an approved imitation stucco or similar appearance), and/or imitation brick is prohibited. The Committee may grant exceptions to allow the use of aluminum, stucco board or textured wood products if incorporated into an architectural design approved by the Committee. Storm doors made of non-factory painted aluminum are prohibited. All window frames shall be made of wood or vinyl. Windows and doors shall not be included in calculating the total area of visible exterior walls.

Section 6. Fences and Walls.

No fence, wall or solid hedge may be erected, grown or maintained in front of or along the front or side lot line. Fences may be constructed in the rear yard only. All fences must be constructed of black cyclone, black iron or with live natural materials. Fences shall not exceed four (4') feet in height.

Section 7. Lot Splits.

Lot splits shall be prohibited.

Section 8. Maintenance of Improvements.

Each Owner shall keep all improvements on his Lot in good condition and in good repair at all times. The exterior of all structures shall be maintained in good repair, structurally sound and in a sanitary condition so as not to threaten the health, safety or welfare of any occupant or to substantially detract from the appearance of the Subdivision as a whole or any area of the Subdivision.

Section 9. Animals.

No farm animals, livestock or wild animals shall be kept, bred or harbored on any Lot, nor shall any animals be kept or bred for commercial purposes. Domestic animals commonly deemed to be household pets may be kept by the Owner and members of his household so long as such pets shall have such care so as not to be objectionable or offensive to others due to noise, odor or unsanitary conditions. Any domestic animal kept by an Owner shall be kept either on a leash or in a run or pen, and shall not be allowed to run loose while unattended. No runs or pens shall be permitted to be erected or maintained unless located within the rear yard adjacent to a wall or the main dwelling or garage and facing the rear or the interior of the Lot, nor shall such runs or pens extend beyond the end of the dwelling or garage into the side yard.

Section 10. Weapons.

No Owner of a Lot shall use or discharge within the Subdivision, nor shall he permit or suffer any occupant of any Lot which he owns, or his or their invitees or guests, to use or discharge within

the Subdivision, any BB guns, firearms, rifles, shotguns, handguns, pellet guns, crossbows or archery equipment.

Section 11. Septic Tanks and Wells.

No septic tank systems shall be dug, installed, constructed or maintained on any Lot. No wells shall be drilled, dug, installed, constructed, or maintained on any Lot except with the permission of Declarant.

Section 12. Sight Distance.

No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations above three (3) feet and six (6) feet from the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by the lot lines and a line connecting them at points twenty-five (25) feet from the intersection of the lot lines, or in the case of a rounded property corner, from the intersection of the lot lines as though extended. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of the sight lines.

Section 13. Temporary Structures.

Trailers, shacks, barns, or any temporary buildings of any description whatsoever are expressly prohibited and no temporary occupancy shall be permitted in unfinished buildings. Tents for entertainment or recreational purposes are permitted for periods not to exceed forty-eight (48) hours. The Declarant, any Builders or their subcontractors, and/or independent contractors contracting with an Owner, may erect temporary storage buildings for materials and supplies to be

used in the construction of houses during the period when new houses are under construction in the Subdivision by the Declarant and/or Builder, and/or independent contractor.

Section 14. General Conditions.

The following general conditions shall be in effect:

- (a) 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. Garbage containers shall not be left at the road side for more than twenty-four (24) hours in any one week. If the City of New Baltimore does not provide municipal garbage collection, the Association may contract with one commercial collection service to provide service to the Subdivision and require each Owner to utilize the service of that contractor at the Owner's expense;
- (b) No house trailers, motor homes, mobile homes, commercial vehicles, boat trailers, boats, camping, recreational vehicles or camping trailers, horse trailers or other utility trailers or vehicles may be parked on or stored on any Lot, unless stored fully enclosed within an attached garage. Commercial vehicles and trucks shall not be parked in the Subdivision (unless stored within a fully enclosed garage), except while making normal deliveries or pickups in the normal course of business. However, a construction trailer may be maintained by each Builder or independent contractor contracting with an Owner during the period when new houses are under construction in the Subdivision by the Builder or independent contractor;
- (c) No laundry shall be hung for drying outside the dwelling;
- (d) The grade and topography of any Lot in the Subdivision may not be changed after original construction without the written consent of the Committee and the City of New Baltimore;

(e) No swimming pool may be built which is larger than one (1) foot above the final Lot grade. No swimming pool may be built unless some portion of the pool is within twenty (20) feet of the residence. All swimming pools must be constructed so that they drain into the storm sewer system only;

(f) No radio, television or other communication antennas of any type will be installed on or outside of any residence, except that the Committee may grant waivers for small dish antennas that are not visible from the street. Antennas may be installed or placed in the interior of any residence;

(g) No exterior lighting shall be installed so as to disturb the occupants of neighboring Lots or impair the vision of traffic on any street;

(h) All utility lines, including electric, gas, telephone and cable television, must be installed underground;

(i) No lawn ornaments, statues or outdoor art shall be placed on any Lot without the prior approval of the Committee, which may be withheld in its sole discretion for purely aesthetic reasons;

(j) Certain types of mailboxes and mailbox stands may be prohibited by the Committee. Brick mailbox houses or stands shall be prohibited.

Section 15. Sales Agency and/or Business Office.

Notwithstanding anything to the contrary herein, the Declarant and/or any Builders may construct and maintain a sales agency and/or business office on any Lots which they may own, or may use a model house or trailer for such purposes. The Declarant and/or such Builders may continue to maintain such a facility for use as long as they have an ownership interest in any Lot.

Section 16. Lease Restrictions.

No Owner shall lease and/or sublet less than the whole of any dwelling on said Lot. No lease shall be for a period less than one (1) year.

Section 17. Signs.

No sign or billboard of any kind shall be placed, erected or maintained on any Lot. The provisions of this paragraph shall not apply to such signs as may be for purposes of resale by any Owner, except that no signs for purposes of resale may be located on the landscaped berm, if one is constructed. The provisions of this paragraph shall also not apply to such signs as are installed or erected on any Lot by Declarant or any Builder during such periods as any Lot shall be for sale or used as a model or for display purposes by the Declarant or any Builder; provided, however, that such signs must be made in accordance with uniform specifications established by the Declarant.

Section 18. Driveways.

All driveways, aprons and parking areas must be paved with asphalt, concrete or brick pavers, subject to the specifications of the City of New Baltimore for the portions within the road right-of-way. Alternative materials may be used in the exclusive discretion of the Committee. The driveways must be completed within six (6) months of occupancy.

Section 19. Destruction of Building by Fire, etc.

Any debris resulting from the destruction in whole or in part of any dwelling or building on any Lot shall be removed with all reasonable dispatch from such Lot in order to prevent an unsightly or unsafe condition.

Section 20. Landscaping.

Any Owner taking occupancy of a newly constructed residence upon any Lot between September 1 and May 1 shall have the landscaping improvements, including, but not limited to, trees, plantings, shrubs and lawns, installed by the next June 30. Any Owner taking occupancy of a newly constructed home between May 1 and August 31 shall have the landscaping improvements as described above completed within sixty (60) days of taking occupancy. The Lot and the right-of-way contiguous to each Lot shall be kept free of weeds by the Owner, and all such landscaping and lawns shall be well-maintained at all times.

Section 21. Completion of Construction of Residences.

Any Owner constructing a house on a Lot, either through his own efforts or through the efforts of a licensed contractor, shall be required to obtain substantial completion of the house within one (1) year from the date of obtaining a building permit for the house.

Section 22. Litter and Pollution.

No Owner shall throw or allow to accumulate on his or any other Lot or 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 Subdivision or the sanitary or storm sewer drains serving the Subdivision.

Section 23. Liability.

The Association shall maintain liability insurance in sufficient amounts for the purpose of protecting itself as well as the Owners, the Declarant, Builders and the City of New Baltimore 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 or on any property under the jurisdiction or control of the Association. Any liability insurance shall name the Owners, the Declarant, Builders and the City of New Baltimore as additional insureds.

Section 24. Published Rules.

The Declarant reserves the right to publish from time to time reasonable rules and regulations consistent herewith governing the Subdivision. The Declarant may delegate or assign this right to its successors or the Association.

Section 25. Maintenance of Non-Road Improvements in the Right-of-Way.

The Association shall maintain and replace as necessary, the median islands, the sprinkler system, and all landscaping situated thereon which are located in the streets within the Subdivision. All landscaping within the median islands shall be maintained in such a manner as to not protrude into the streets or block the vision of vehicular traffic utilizing the streets.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement.

The Declarant, the 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. Failure of the Declarant, the 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.

The Declarant or the Association shall have the right to enter upon any Lot for the purposes of mowing, cutting, weeding, or removing any unsightly growth, which in the opinion of the Declarant or the Association detracts from the overall attractiveness of the health and welfare of the Subdivision. The Declarant or the Association may enter upon the Lots for the purpose of removing any debris or trash from the Lot. The Declarant or the Association shall be under no obligation to take such affirmative action. Any costs incurred in such action by the Declarant or Association shall be chargeable against the Owner and shall constitute a lien against the Lot.

Section 2. Severability.

Invalidation of any one or these easements, covenants, restrictions or conditions by judgment or court order shall not affect any other provisions, which remaining provisions shall continue in full force and effect.

Section 3. Amendment.

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 an additional period of ten (10) years. The Declaration may be amended during the first twenty (20) year period by an instrument signed by two-thirds ($\frac{2}{3}$) or more of the Owners and thereafter by an instrument signed by more than one-half ($\frac{1}{2}$) of the Owners, except that amendments made by the Declarant for the purpose of adding residential lots and/or Common Areas to the Association and making this Declaration apply to such lots and/or Common Areas, or amendments made for the purpose of clarifying this Declaration or correcting typographic or semantic errors or errors of survey contained therein, shall not require the vote or signature of any Owners,

the Association or any Members thereof. No amendment may be adopted without the consent of the Declarant at any time in which it owns one (1) or more Lots in the Subdivision. Any amendment must be recorded with the Macomb County Register of Deeds before the amendment becomes effective.

Section 4. Annexation of Additional Lots and/or Common Areas.

The Declarant reserves the right at any time, or times, in the future to amend this Declaration by adding to it one or more additional subdivisions hereafter developed and platted by Declarant or its successors or assigns. Such additional subdivisions may or may not contain Common Areas. Any such amendment(s) to this Declaration shall provide that the Owners of all residential lots in future added subdivisions shall be required to be Members of the Ashley Farms Homeowners' Subdivision Association and shall be subject to the covenants, restrictions, easements, charges and liens set forth herein. Such amendment(s) shall also provide that the Common Areas contained within the Subdivision and all future subdivisions shall be for the use and benefit of all Owners of Lots in the Subdivision and all subdivisions added hereto. Additional Lots and Common Areas may be annexed to the Association by Declarant without the consent or approval of the Association or any of its Members or any Owner. Annexation by action of the Association shall require the consent of two-thirds (2/3) of its Members.

Section 5. Assignment or Transfer of Rights and Powers.

Except as expressly limited by the Declaration, the Declarant reserves the right to assign to the Association, in whole or in part, from time to time, any and all of the rights, powers, titles, easements and estates hereby reserved or given to the Declarant including the right and power to

approve or disapprove any use, act, proposed action, or any other matter or thing. Any such assignment or transfer shall be made by appropriate instrument, in writing, and such assignee shall thereupon have the same rights and powers, and be subject to the same obligations and duties as herein given, reserved to and assumed by the Declarant in connection with the rights, powers and easements so assigned, and such instrument when executed by such assignee shall without further act, release the Declarant from all obligations, duties and liabilities in connection therewith.

Section 6. Appointment of Declarant As Attorney In Fact

All Owners, their successors and assigns hereby irrevocably appoint the Declarant as their agent and attorney-in-fact for the purpose of executing any document necessary to allow Declarant to do any thing which Declarant is entitled to do under the terms of this Declaration.

Section 7. Additional Signatories.

The Parties who, in addition to the Declarant, sign this Declaration, hereby accept, adopt, confirm, ratify and subject their respective interests in the Subdivision to the easements, covenants and restrictions contained herein.

IN WITNESS WHEREOF, the undersigned, having obtained the consent of all parties with an ownership interest or security interest in the Subdivision has executed this Declaration on the 1st day of ~~July~~, 2000.

December

WITNESSES:

DECLARANT:

ASHLEY FARMS ASSOCIATES L.L.C.,
a Michigan limited liability
company

By: TVU Land Developers, L.L.C., a Michigan
corporation, Member

By: Bart T. Bauer
Bart T. Bauer, Member

Sandra A. Sutton
SANDRA A. SUTTON

Eric A. Gold
ERIC A. GOLD

STATE OF MICHIGAN)
) SS.
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me this 10th day of Dec, ²⁰⁰⁰~~1999~~,
by Bart T. Bauer, Member of TVU Land Developers, L.L.C., a Michigan limited liability company,
Member of Ashley Farms Associates L.L.C., a Michigan limited liability company, on behalf of the
limited liability company.

Sandra M. Hedgecough

SANDRAM HEDGECOUGH
NOTARY PUBLIC, OAKLAND CO., MI
MY COMMISSION EXPIRES Nov 6, 2004

This instrument drafted by
and when recorded return to:

Jeffrey A. Supowit, Esq.
Weisman, Trogan, Young & Schloss
30100 Telegraph Road, Suite 428
Bingham Farms, MI 48025
(248) 258-2700

realest.Ashley Farms.Restated Declaration of Easements/sjr
File No. 4119-1667