

BY - LAWS

OF

BROOKEDALE WOODS HOMEOWNERS ASSOCIATION

ARTICLE I

NAME AND LOCATION: The name of the corporation is BROOKEDALE WOODS HOMEOWNERS ASSOCIATION, hereinafter referred to as the "Association." The principal office of the corporation shall be located at 3250 West Big Beaver Road, Troy, Michigan 48084, but meetings of members and directors may be held at such places within the State of Michigan, County of Oakland, as may be designated by the Board of Directors.

ARTICLE II

Section 1. "Association" shall mean and refer to BROOKEDALE WOODS HOMEOWNERS ASSOCIATION, a Michigan non-profit corporation, its successors and assigns.

Section 2. "Subdivision" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions and any Amendments thereto and such additions thereto as may hereafter be brought within the jurisdiction of the Association, including proposed Brookedale Woods Subdivision Nos. 2 and 3.

Lots 1 through 116 inclusive and common areas of Brookedale Woods Subdivision, Part of the N.E. 1/4 of Section 7, T3N., R11E., Township of Avon, Oakland County, Michigan, according to the Plat thereof, as recorded in Liber 148 of Plats, Pages 33-35 inclusive, Oakland County Records.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners described, including such additional open space areas as may be hereafter brought within the jurisdiction of the Association, by development of Brookedale Woods Subdivision Nos. 2 and 3. The first Open Space Area is described as follows:

Private Open Space Areas 1-5 inclusive, consisting of 5.902 acres and being part of Brookedale Woods Subdivision, according to the Plat thereof, as recorded in Liber 148 of Plats, Pages 33-35, Oakland County Records.

Section 4. "Lot" shall mean and refer to any numbered lot in the "Subdivision" as defined in Section 2 above.

Section 5.

"Owner" shall mean and refer to the Record Owner, whether one or more persons or entities, of a fee simple title to any lot which is part of the subject "Subdivision" including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. When more than one person or entity has an interest in the fee simple title to any lot, the intent of all such persons collectively shall be that of a single owner.

Section 6.

"Declarant" shall mean and refer to Frankel-Smokler Investment Co., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Developer for the purpose of development.

Section 7.

"Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the subdivision plat recorded in the office of the Oakland County Register of Deeds, State of Michigan.

Section 8.

"Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 9.

"Stock" shall mean and refer to the shares of stock of Brookedale Woods Homeowners Association, a Michigan non-profit corporation, organized on a stock basis and issued to its members in accordance with these By-Laws and Article III of the subdivision open space agreements entered into by the Declarant and Avon Township.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1.

The Association shall issue shares of stock to its members in accordance with the terms of Article III of the Declaration of Covenants, Conditions and Restrictions. Each Shareholder is entitled to a number of votes equal to the number of shares of stock held by him.

Section 2.

Shares of stock shall not be transferable by assignment, sale or other method of transfer but must be returned to the Association to be reissued if so required in the name of the Assignee, Purchaser or Transferee, as the case may be, in accordance with the Declaration of Covenants, Conditions and Restrictions as aforesaid. The Board of Directors shall cause complete records to be kept on a current basis of the ownership of issued shares of stock, the number of votes attributable thereto, and all transfers or assignments. Each share of stock shall contain thereon a restriction provision to accomplish the terms of this section.

ARTICLE IV

MEETINGS OF MEMBERS

Section 1.

Annual Meeting. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of eight o'clock P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2.

Special Meetings. Special meetings of the members may be called at any time by the President or the Board of Directors, or upon written request of one-fourth (1/4) of the members who are entitled to vote.

Section 3.

Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Each member shall register his address with the Secretary, and notices of meetings shall be mailed to each member at such address. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting. If the business of any meeting shall involve any change in the basis or maximum amount of assessments set forth in Section 9 of the Subdivision Open Space Agreement to which the Subdivision is subject and recorded or any special assessments therein authorized, notice of such meeting shall be given or sent as therein provided.

Section 4.

Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of the total membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5.

Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his lot.

ARTICLE V

Section 1. Number. The affairs of this Association shall be managed by a Board of not less than four (4) directors, nor more than eight (8). The first such Board of Directors shall be appointed by the Declarant and thereafter until the vote of the lot owners equals that of the Declarant or until December 1, 1980, whichever is sooner to occur.

Section 2. Term of Office/ One half (1/2) of the directors shall be elected each year. Directors shall be elected by the members at each annual meeting of shareholders and shall serve two-year terms. Directors may be elected to fill unexpired terms for periods of less than two years. A director shall hold office for the term for which he is elected, until either his successor is elected, and qualified, or until his resignation or removal.

The term of office for the directors who are elected at the annual meeting to be held during July 1981 shall be as follows:

(A) Two years for the directors who receive the largest number of votes, and

(B) One year for the remaining directors elected at such meeting.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Vacancies. Vacancies in the Board of Directors shall be filled by the majority of the remaining directors, any such appointed director to hold office until his successor is elected by the members who may make such election at the next annual meeting of the members or at any special meeting duly called for the purpose.

Section 5. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 6. Action Without a Meeting. Any action which might be taken at a meeting of the Board may be taken without a meeting if before or after the said action all members of the Board consent thereto in writing. The written consents shall be filed with the Minutes of the proceedings of the Board. The consent has the same effect as a vote of the Board for all purposes.

ARTICLE VI

NOMINATIONS AND ELECTION OF DIRECTORS

Section 1.

Nomination. After the vote of the lot owners equals that of Declarant or after December 1, 1980, whichever is sooner to occur, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a Member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to the annual meeting of the members. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2.

Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, the votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VII

MEETINGS OF DIRECTORS

Section 1.

Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2.

Special Meetings. Special meetings of the Board of Directors shall be held when called by the President or any officer of the Association, or by any two directors, after not less than three (3) days' notice to each director.

Section 3.

Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VIII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1.

Powers. The Board of Directors shall have power to:

A. Adopt and publish rules and regulations governing the use of the Open Space Areas and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

B. Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed thirty (30) days for infraction of the published rules and regulations;

C. Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;

D. Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

E. Employ a Manager, an independent contractor, professional contractors for maintenance, or such other employees as they deem necessary, and to prescribe their duties.

Section 2.

Duties. It shall be the duty of the Board of Directors to:

A. Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested and to keep a current record of Shareholders in accordance with Section 2 of Article III hereof.

B. Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

C. As more fully provided in the Declaration, to:

(1) Fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period; and

(2) Send written notice of each assessment to every owner subject thereto of the year for which such assessment is due; as more fully provided for in Article IV, Section 7 of the Amended Declaration of Covenants, Conditions and Restrictions.

- (3) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- D. Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- E. Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- F. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- G. Cause the Common Areas to be improved, maintained, and preserved, as is more fully defined in the Declaration of Covenants, Conditions and Restrictions.
- H. Comply with the requirements of the Subdivision Open Space Agreement entered into with Avon Township;
- I. To exercise for the Association all powers, Duties and authority vested in or delegated to the Association.

ARTICLE IX

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members and shall be by majority vote of the directors.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the

ssociation may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5.

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

Section 6.

Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7.

Multiple Offices. The offices of Secretary, Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8.

Duties. The duties of the officers are as follows:

PRESIDENT

A. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments, and may co-sign all checks and promissory notes.

VICE-PRESIDENT

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

SECRETARY

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

TREASURER

D. The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the ordinary course of business conducted within the limits of a budget adopted by the Board; shall sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of its regular annual meeting.

ARTICLE X

COMMITTEES

The Association shall appoint a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE XI

BOOKS AND RECORDS

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XII

PROXIES

Section 1.

At all corporate meetings of members, each member may vote in person or by proxy.

Section 2.

All proxies shall be in writing and filed with the Secretary. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon sale by the member of his lot.

ARTICLE XIII

INDEMNITY

To the full extent permitted by law, the Corporation shall indemnify each person made or threatened to be made a party to any civil or criminal action or proceeding by reason of the fact he, or his testator or intestate representative is or was a Director, Officer or managerial employee of the Corporation unless such person is finally adjudged to be liable for gross negligence or acted in bad faith in the performance of his duties.

ARTICLE XIV

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of

six (6%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessments. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Open Space Areas or abandonment of his lot.

ARTICLE XV

CORPORATE SEAL

The Association shall have no seal. In the event a seal is necessitated for the transaction of any business, a blank corporate seal may be utilized by the Corporation.

ARTICLE XVI

AMENDMENTS

Section 1.

These By-Laws may be amended, at a regular meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy. However, any By-Law amendment which affects the rights of members to vote on any matter, including without limitation, any amendment to Article III or Article IV of these By-Laws; shall require the affirmative vote of fifty-one percent (51%) of the total of all members entitled to vote.

Section 2.

In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration of Restrictions applicable to the existing subdivision referred to in Section 1, and these By-Laws, the Declaration of Covenants, Conditions and Restrictions and any Amendments thereto shall control.

ARTICLE XVII

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the Directors of the BROOKEDALE WOODS HOMEOWNERS ASSOCIATION, have hereunto set our hands this 10th day of May, 1977.

/s/ SAMUEL FRANKEL

/s/ BERT SMOKLER

/s/ GUY BARRON

/s/ GARY MENZEL

Subscribed and sworn to before
me this 10th day of
May , 1977.

/s/ Marge D. Benesh

Notary Public, County,
Michigan

My Commission expires: August 25, 1979

CERTIFICATION

I, the undersigned, do hereby certify:

THAT, I am the duly elected and acting Secretary of the
BROOKEDALE WOODS HOMEOWNERS ASSOCIATION, a Michigan Non-Profit
corporation, and

THAT, the foregoing By-Laws constitute the original By-
Laws of said Association, as duly adopted at a meeting of the Board
of Directors thereof, held on the 10th day of May , 1977.

IN WITNESS WHEREOF, I have hereunto subscribed my name
and affixed the seal of said Association this 10th day of
May , 1977.

/s/ Gary Menzel Secretary

AMENDMENTS:

7/11/80 Annual Membership Meeting - Art.V,§2;Art.VIII§2(c)(2);Art.XVI,\$1

BROOKEDALE WOODS SUBDIVISION

AVON TOWNSHIP, MICHIGAN

AMENDED SUBDIVISION OPEN SPACE AGREEMENT

THIS AGREEMENT is made this 27th day of DECEMBER, 1976

by and between the TOWNSHIP OF AVON, Oakland County, Michigan, herein called the Township and the Frankel - Smokler Investment Company, 3250 West Beaver Road, Troy, Michigan 48084

herein called the "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the owner of land as is set forth in Exhibit A, hereto attached and made a part hereof.

WHEREAS, the Avon Township Zoning Ordinance provides an optional method for the development of a subdivision with areas to be set aside for the benefit of lot owners therein while maintaining the maximum density requirements of the zoning ordinance, and

WHEREAS, the Declarant has developed the hereinabove described property under said provisions, such property having been subdivided and known as Brookedale Woods Subdivision, the final plat of which was recorded in Liber 148 of Plats, Pages 33 to 35 inclusive, Oakland County Records.

WHEREAS, the Declarant applied for approval under the Planned Neighborhood Development provisions of said Zoning Ordinance for said Brookedale Woods Subdivision at the time of the submission of the proposed plat, and final approval has been granted by the Township Board of the general plan of development, and

WHEREAS, the Declarant and the Township entered into a binding contract relative to the details of development of said Subdivision and maintenance of the Open Space Area, said contract being entitled "Subdivision

RECORDED
OAKLAND COUNTY MICHIGAN
REGISTER OF DEEDS RECORDS
JAN -5 AM 8:46
LYNN D. ALLEN
CLERK-REGISTER OF DEEDS

Open Space Agreement" and entered into on June 2, 1976, and recorded in Liber ~~6692~~, Pages 719 to 732 inclusive, Oakland County Records, and

WHEREAS, the Declarant desires to amend said Subdivision Open Space Agreement and the Township of Avon is in accord with same, and

WHEREAS, Section 20 of said Subdivision Open Space Agreement provides that said Agreement may be canceled, altered, amended or modified by an instrument, in writing, recorded in the Office of the Register of Deeds for Oakland County by Seventy-Five (75%) Percent of the owners of the lots and the Township of Avon,

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree that the Subdivision Open Space Agreement dated June 2, 1976, and recorded in Liber ~~6692~~, Pages 719 to 732 inclusive, Oakland County Records, covering Brookedale Woods Subdivision, be and hereby is amended by substituting the within Amended Agreement in its place. Further, that the within Amended Agreement shall be considered a binding contract relative to the details of development of said Brookedale Woods Subdivision and the maintenance of the Open Space Areas contained therein.

1. The Declarant hereby dedicates and conveys to each of the Lot Owners of Lots 1 through 116, both inclusive, of Brookedale Woods Subdivision, according to the Plat thereof as recorded in Liber 148 of Plats, Pages 33 to 35 inclusive, Oakland County Records, a right and easement of enjoyment in and to the areas designated on said recorded Plat as Private Open Space Areas Nos. 1 to 5 inclusive, for park and recreation purposes, and for the storage of surface water, and hereby covenants for itself, its heirs and assigns that it will convey fee simple title to the Open Space Areas to the Subdivision Association hereinafter described, free and clear of all encumbrances and liens, except easements of record, prior to the conveyance of the first Lot in Brookedale Woods Subdivision to a home buyer or within One Hundred Thirty (130) days of the recording of the plat, whichever shall first occur, at which

time any and all responsibility and liability with respect to the property conveyed, including by way of illustration and not limitation, payment of taxes, assessments and maintenance, shall cease and terminate as to the Declarant and shall pass to and rest upon and be assumed by the grantee Association and its members in accordance with the membership obligations as herein elsewhere set forth and in the Declaration of Covenants, Conditions and Restrictions, Association By-Laws, and rules and regulations provided therefore.

2. Declarant or its Builder/Purchaser assigns agree to display an acknowledgment of this Agreement, containing the Association's duties and responsibilities, with the Liber and Pages on which it is recorded in some conspicuous location in all places where said Lots are being sold.

3. Declarant or its Builder/Purchaser assigns agree to supply each Lot Purchaser with a copy of this Agreement and a schematic of the development plans and requirements for maintenance of the Open Space Areas at the time of entering into a Purchase Agreement.

4. Title to the Open Space Areas shall be vested in the Association hereinafter described for the benefit of the Owners and subject to the right and easement of enjoyment in and to such Open Space Areas by the Owners. Such easements shall not be personal, but shall be considered to be appurtenant to said Lots, which easement shall pass with the title to said Lots whether specifically set forth in deeds to the Lots or not.

5. Control and jurisdiction over the Open Space Areas shall be vested in the Association of said Owners to be known as the BROOKEDALE WOODS SUBDIVISION HOMEOWNERS ASSOCIATION and referred to herein as the "Association".

6. Such Association shall be organized as a non-profit corporation, on a stock basis, for a perpetual term under the laws of the State of Michigan. Such Association shall be incorporated by the Declarant prior to the sale of any of the Lots in BROOKEDALE WOODS SUBDIVISION but in any event within One Hundred Thirty (130) days following the recording of the final plat of Brookedale Woods Subdivision.

7. Membership in the Association shall be mandatory for each Owner and any successive Owner of residential Lots in Brookedale Woods Subdivision.

For the purposes of this Agreement, "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. Anything to the contrary, notwithstanding during such time as a Land Contract sale of a Lot is in force, the Land Contract Vendee shall be considered to be the member of the Association provided, however, this shall not apply to the Declarant.

Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to assessment.

The Association shall issue shares of stock to its members, in accordance with the terms of this Section. Each member is entitled to a number of votes equal to the number of shares of stock held by him. A member shall be issued one share of stock for each Lot in which he holds the interest required for membership. When more than one person holds any such interest in any Lot, all such persons shall be members but only one share of stock shall be issued per Lot and such persons shall exercise the one vote attributable to such share as they, among themselves, determine. Notwithstanding the foregoing, the Declarant shall be entitled to three shares of

stock for each Lot in which it holds the interest required for membership in order to assure the orderly development and maintenance of the Open Space Areas provided, however, that upon the happening of either of the following events, whichever occurs earlier:

(A) When the total votes of the members, excluding the Declarant, equal the total votes outstanding held by the Declarant, or

(B) on December 1, 1980

the Declarant shall assign back to the Association two shares of stock for each Lot in which it holds an interest as defined above.

Upon the sale of a Lot with a house constructed thereon by a Builder/Purchaser to a Purchaser/Member, the Declarant shall assign one of the shares of stock attributable to said Lot to said Purchaser/Member and the balance of said shares shall be assigned back to the Association.

8. The Association shall have the authority and responsibility to establish rules, regulations, and policies for the betterment of the Association, including the authority to make and enforce regulations pertaining to the use and maintenance of the Open Space Areas, which shall be binding upon the Lot Owners.

9. Assessments shall be levied by the Association and shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the properties, and in particular, for the operation, maintenance, management and improvement of the Open Space Areas, including but not limited to, the payment of taxes and insurance thereon, the repair and replacement thereof, for additions thereto and improvements thereof, and for the cost of labor, equipment, materials, management and supervision for and in connection with the Open Space Areas and the Association.

Until January 1 of the year immediately following the conveyance by a Builder/Purchaser of the first Lot to an Owner, the maximum annual assessment per Lot shall be Fifty and 00/100 (\$50.00) Dollars per Lot.

(A) From and after January 1 of the year immediately following the conveyance by a Builder/Purchaser of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five (5%) percent above the maximum assessment for the previous year, without a vote of the membership.

(B) From and after January 1 of the year immediately following the conveyance by a Builder/Purchaser of the first Lot to an Owner, the maximum annual assessment may be increased above five (5%) percent by a vote of two-thirds (2/3) of the members, excluding the Declarant, who are voting in person or by proxy, at a meeting duly called for this vote and the affirmative vote of the Declarant.

(C) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum. Anything to the contrary notwithstanding, in the case of a Lot which has been sold on Land Contract by the Declarant to a Builder/Purchaser, the personal obligation for the assessments shall be that of the Builder/Purchaser prior to a sale to a Homebuyer. Further, that until a Lot is occupied by a Homebuyer, the annual assessment charge applicable thereto may be fixed at a reduced amount as uniformly determined by the Board of Directors of the Association.

10. The Open Space Areas heretofore referred to shall be equally available for the use and enjoyment of all residents and guests accompanying said residents of the Brookdale Woods Subdivision. No change shall be allowed in the Open Space Areas which will alter the storm water retention facilities without approval of the Township.

11. It is contemplated that the Declarant will, at some future date, amend this Agreement by adding Open Space Areas which are to be part of the proposed Brookedale Woods Subdivision Nos. 2, 3 and so forth, the overall legal descriptions of which are contained in Exhibit B attached hereto and made a part hereof and subjecting the Lots in said proposed Subdivision to the within Agreement. Anything to the contrary notwithstanding, the Declarant may amend this Agreement as aforesaid, without the Lot Owners' consent, by recording an appropriate instrument, signed by the Declarant and the Township of Avon, and said instrument shall provide that all of the Open Space Areas in each of said Subdivisions shall be for the use and benefit of all residents of said Subdivision. In addition, the Declaration of Covenants, Conditions and Restrictions, covering Brookedale Woods Subdivision, shall be amended so as to subject the Lots in said proposed Subdivision to said Declaration, including but not limited to the requirements for payment of assessments and mandatory membership in the Brookedale Woods Homeowners Association.

12. The Declarant hereby consents that taxes assessed against the Open Space Areas may be pro-rated among the Lot Owners and billed as a part of the taxes assessed to the individual Lots.

13. The Association shall be responsible for the maintenance of the storm water retention basin(s) and the cost thereof as more fully set forth hereinafter:

The storm water retention basin(s) shall be used for no purpose other than retention of surface water until such time as the TOWNSHIP may determine and signify by written notice to the Association or its successors that there is no further need for the facility. Notwithstanding this requirement, the Association may use water from the basin(s) for purposes of irrigation.

Maintenance of the retention basin(s) shall include keeping the bottom of the retention basin(s) free from silt and debris, removing harmful

algae, maintaining a steel grating across the pond's inlets, the control of erosion, and such other maintenance as is reasonable and necessary to the intended functioning of the basin(s).

14. Control and Jurisdiction by Avon Township: In the event that the Association shall at any time fail to maintain the Open Space Area(s), which includes the storm water retention area(s) therein, in reasonable condition and order, the Township may serve written notice upon the Association or upon said Lot Owners setting forth the manner in which the Association has failed to maintain the Open Space Area(s) and the storm water retention basin therein in reasonable condition and said notice shall include a demand that deficiencies of maintenance be cured within thirty (30) days thereof, and further, shall state the date and place of a hearing thereon before the Township Board or such other Boards, body or official to whom the Township Board shall delegate such responsibility, which shall be held within fourteen (14) days of the notice. At such hearing the Township may modify the terms of the original notice as to the deficiencies and may give an extension of time within which they shall be cured. If the deficiencies set forth in the original notice or in the modifications thereof shall not be cured within said thirty (30) days or any extension thereof, the Township, in order to prevent the Open Space Area(s) and the storm water retention basin therein contained from becoming a public nuisance, may enter upon said Open Space Area(s) and maintain the same for a period of one (1) year. Said maintenance by the Township shall not constitute a taking of the Open Space Area(s) nor vest in the public any right to use the same. Before the expiration of the said year, the Township shall upon its own initiative, or upon the request of the Association, call a public hearing upon notice to the Association and to the members thereof, at which hearing such Association or the members shall show cause why such maintenance by the Township shall not, at the election of the Township, continue for a succeeding year. If the Township shall reasonably determine that the Association is ready and able to maintain the Open Space Area(s) and the storm water retention basin(s) therein contained in reasonable condition, the Township shall cease to maintain the Open Space Area(s) and the storm water retention basin(s) at the end of said

year. If the Township shall reasonably determine that the Association is not ready and able to maintain the Open Space Area(s) and the storm water retention basin(s) therein contained in a reasonable condition; the Township may in its reasonable discretion continue to maintain said Open Space Area(s) and the storm water retention basin(s) during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter. Said maintenance by the TOWNSHIP shall not constitute a taking of the basin(s), or the property, nor vest in the public any right to use the same. However, should an emergency threatening the public health, safety and general welfare of the public be determined by the Township to exist, the Township shall have the right to take immediate corrective action.

15. The reasonable cost of such maintenance by the Township shall be charged to the Association, and if not paid, shall be assessed equally against all properties within Brookedale Woods Subdivision and shall become a lien on said properties, provided, however, said lien shall be subject to the provisions of the Declaration of Covenants, Conditions and Restrictions covering said Subdivision and recorded with the Register of Deeds. In addition, the Township shall be subrogated, at its option, to the Association as to all of its rights of collection for any lien as may be herein provided.

16. Notwithstanding any other provision of this Agreement, the Declarant reserves the right to grant easements within the Open Space Area(s) for the installation, repair and maintenance of water mains, sewers, drainage courses and other public utilities subject to the approval of the Township, provided that such utilities shall be installed in such manner as to minimize damage to the natural features of the Open Space Area(s).

17. The Declarant will submit to the Township a certain Declaration of Covenants, Conditions and Restrictions which will be recorded and will constitute restrictions running with the land and applicable to said Brookedale Woods Subdivision.

18. The parties hereto make this Agreement on behalf of themselves, their heirs, successors and assigns and hereby warrant that they have the authority and capacity to make this Agreement.

19. These covenants are to run with the Land and shall be binding on the parties hereto, their heirs, devisees and representatives, until the Township and seventy-five (75%) percent of the Owners of said Lots in this Subdivision by an instrument in writing recorded in the Office of the Register of Deeds for Oakland County, Michigan, agree to cancel, alter, amend, or modify this Agreement.

20. Invalidation of any one or more of these Covenants by judgment decree or order of any Court shall in no way affect any of the other provisions which shall remain in full force and effect.

21. In the event of the violation or attempted violation of any of the Covenants herein, it shall be lawful for any person or persons owning any interest in said Land to prosecute a proceeding at law or in equity against the person or persons so violating or attempting to violate such Covenant and either prevent or enjoin such violation or recover damages therefore.

22. The Declarant agrees that at such time as any two Lots or more, are sold to a Builder, the Declarant will obtain from such Builder an acknowledgement that the latter will comply with the provisions of Paragraphs 2 and 3 of this Agreement. A notarized copy of said Acknowledgement shall be submitted to the Township.

IN WITNESS WHEREOF, the respective parties have hereunto affixed their hands and seals the day and year first above written.

WITNESSED:

TOWNSHIP OF AVON

Doris G. Keylon
DORIS G. KEYLON
Betty Adams
Betty Adams

By: Earl Borden
Earl Borden, Supervisor
By: Thelma Spencer
Thelma Spencer, Clerk

FRANKEL-SMOKLER INVESTMENT COMPANY,
a Joint Venture

By: Samuel Frankel
Samuel Frankel, a Joint Venturer

(55.5)

10

On this 27th day of December, 1976, before me the subscriber, a Notary Public in and for said County, appeared Earl Borden and Thelma Spencer, who being by me duly sworn did say that they are the Supervisor and Township Clerk, respectively, of the Township of Avon, and that said instrument was signed in behalf of the Township of Avon, by authority of the Township Board and Earl Borden and Thelma Spencer, acknowledged said instrument to be the free act and deed of the Township of Avon.

Loris J. Kaylor
Loris J. Kaylor, Notary Public
Oakland County, Michigan
My Commission Expires: *Sept. 30, 1980*

(55.5)

5

On this 21ST day of December, 1976, before me the subscriber, a Notary Public in and for said County, appeared Samuel Frankel, who being by me duly sworn did say that he is a Joint Venturer of the FRANKEL-SMOKLER INVESTMENT COMPANY, and that said instrument was signed in behalf of said FRANKEL-SMOKLER INVESTMENT COMPANY, and acknowledged said instrument to be the free act and deed of said FRANKEL-SMOKLER INVESTMENT COMPANY.

Denyse Jill Benton
Denyse Jill Benton, Notary Public
Oakland County, Michigan
My Commission Expires: 11/6/77

WHEN RECORDED RETURN TO:

TOWNSHIP OF AVON
P. O. BOX 250
ROCHESTER, MICHIGAN 48063

EXHIBIT "A"

BROOKEDALE WOODS, A PART OF THE N.E. 1/4 Section 7, T.3N., R.11 E., Avon Township, Oakland County, Michigan, described as; beginning at the North-east corner of said Section 7; thence S.00°13'40"E. 625.92 Feet along the east line of said Section 7; said line also being the center line of Adams Road; thence N.89°52'20"W. 1216.68 feet; thence S.00°05'50" E. 388.70 feet; thence S.44°19'42"W. 110.69 feet; thence N.53°10'43"W. 125.08 feet; thence N.50°36'50"W. 185.00 feet; thence S.41°13'33"W. 167.95 feet; thence S.87°44'54"W. 145.31 feet; thence S.45°17'32"W. 319.94 feet; thence S.61°45'00"W. 340.00 feet; thence N.20°15'38"W. 113.97 feet; thence S.77°43'44"W. 9.65 feet; thence N.00°02'17"E. 1307.30 feet to a point on the North line of said Section 7, said line also being the center of Tienken Road; thence along said line N.89°53'20"E. 2364.79 feet to the point of beginning and consisting of 116 lots and private open spaces No.1 thru 5 inclusive and containing 47.253 acres.

EXHIBIT "B"

A part of the East $\frac{1}{2}$ of Section 7, T3N, R11E, Avon Township, Oakland County, Michigan, described as: Beginning at the East $\frac{1}{4}$ corner of said Section 7; thence S. $00^{\circ}04'21''$ W. 1455.26 feet along the East line of said Section 7; thence S. $89^{\circ}59'19''$ W. 1236.59 feet to a point on the East line of "Bellarmine Hills", as recorded in Liber 82, Page 24, Oakland County Records; thence along the East line of said "Bellarmine Hills" N. $00^{\circ}40'05''$ E. 1472.17 feet to a point on the North line of said "Bellarmine Hills"; thence along the North line of said "Bellarmine Hills" N. $89^{\circ}09'20''$ W. 1155.23 feet; thence N. $00^{\circ}02'17''$ E. 2464.08 feet to a point on the North line of said Section 7; thence along said line N. $89^{\circ}53'20''$ E. 2364.79 feet to the Northeast corner of said Section 7; thence S. $00^{\circ}13'40''$ E. 625.92 feet along the East line of said Section 7; thence N. $89^{\circ}52'20''$ W. 1216.68 feet; thence S. $00^{\circ}05'50''$ E. 629.19 feet; thence S. $89^{\circ}38'00''$ E. 1218.14 feet to a point on the East line of said Section 7; thence along said East line S. $00^{\circ}13'40''$ E. 1250.10 feet to the point of beginning, excepting therefrom that parcel known as "Brookdale Woods Subdivision", which subdivision is described as follows:

A PART OF THE N.E. $\frac{1}{4}$ Section 7, T.3N., R.11 E., Avon Township, Oakland County, Michigan, described as; beginning at the Northeast corner of said Section 7; thence S. $00^{\circ}13'40''$ E. 625.92 Feet along the east line of said Section 7; said line also being the center line of Adams Road; thence N. $89^{\circ}52'20''$ W. 1216.68 feet; thence S. $00^{\circ}05'50''$ E. 388.70 feet; thence S. $44^{\circ}19'42''$ W. 110.69 feet; thence N. $53^{\circ}10'43''$ W. 125.08 feet; thence N. $50^{\circ}36'50''$ W. 185.00 feet thence S. $41^{\circ}13'33''$ W. 167.95 feet; thence S. $87^{\circ}44'54''$ W. 145.31 feet; thence S. $45^{\circ}17'32''$ W. 319.94 feet; thence S. $61^{\circ}45'00''$ W. 340.00 feet; thence N. $20^{\circ}15'38''$ W. 113.97 feet; thence S. $77^{\circ}43'44''$ W. 9.65 feet; thence N. $00^{\circ}02'17''$ E. 1307.30 feet to a point on the North line of said Section 7, said line also being the center of Tienken Road; thence along said line N. $89^{\circ}53'20''$ E. 2364.79 feet to the point of beginning and consisting of 116 lots and private open spaces No.1 thru 5 inclusive and containing 47.253 acres.

11/14

AMENDED DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
BROOKEDALE WOODS SUBDIVISION

RECORDED
OAKLAND COUNTY, MICHIGAN
REGISTER OF DEEDS RECORDS

1977 JAN -5 AM 8:26

Lynn D. Allen
LYNN D. ALLEN
CLERK-REGISTER OF DEEDS

THIS AMENDED DECLARATION, made on the date hereinafter set forth by Frankel-Smokler Investment Company of 3250 West Big Beaver Road, Troy, Michigan, 48084, hereinafter referred to as Declarant.

WITNESSETH

WHEREAS, Declarant is the owner of in excess of Ninety Percent (90%) of certain Lots in the Township of Avon, County of Oakland, State of Michigan, which are more particularly described as:

Lots 1 through 116 inclusive and private open space areas
Nos. 1 to 5 inclusive of Brookedale Woods Subdivision, part
of the N.E. 1/4 of Section 7, T.3N., R.11E., Township of Avon,
Oakland County, Michigan according to the Plat thereof as recorded in Liber 148 of Plats, Pages 33 to 35 inclusive, Oakland County Records, containing 47.3 acres, more or less as described in Exhibit A, attached hereto and made a part hereof.

AND WHEREAS, Declarant executed a certain Declaration of Covenants, Conditions and Restrictions covering the above described properties and recorded same with the Oakland County Register of Deeds in Liber 148 Pages 33 to 35 inclusive Oakland County Records.

AND WHEREAS, the Declarant desires to amend the aforementioned Declaration and is entitled to do so with the consent of the Township of Avon, which consent is so indicated by the joining in the execution of this instrument by the Township.

NOW THEREFORE, Declarant hereby amends the above referred to recorded Declaration of Covenants, Conditions and Restrictions by substituting in place of the same the subject Amended Declaration of Covenants, Conditions and Restrictions and hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any rights, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to Brookedale Woods Homeowners Association, a Michigan Non-Profit Corporation formed on a stock basis, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. When more than one person or entity has an interest in the fee simple title to any Lot, the interest of all such persons collectively shall be that of a single Owner.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described in Exhibit A and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

Private Open Space Nos. 1 to 5 inclusive consisting of 5.902 acres and being part of Brookdale Woods Subdivision according to the plat thereof as recorded in Liber 148 of Plats, Pages 33 to 35, inclusive Oakland County Records. Subject to easements and rights of way of record.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Builder-Purchaser" shall mean Builders who purchase Lots from Declarant for construction purposes.

Section 7. "Home-Purchaser" shall mean purchasers of homes constructed on lots in the subject subdivision by Builder-Purchasers.

Section 8. "Declarant" shall mean and refer to Frankel-Smokler Investment Company, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by the Declarant and two-thirds of the members has been recorded and provided further, that no such dedication or transfer or determination as to the conditions thereof shall be effective unless the prior consent thereto of the Township of Avon by and through its Township Board shall have first been obtained.

(d) The Commons 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 Commons Area by the Association or the Declarant. Anything to the contrary notwithstanding, nothing in this paragraph shall be construed to create an obligation to so construct said facilities. All residents of property under the jurisdiction of the Association, and guests accompanying said residents, shall have equal access to the Commons 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.

Section 2. Delegation of Use. Any Owner may delegate in accordance with the By-Laws, his rights of enjoyment in and to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Anything to the contrary notwithstanding during such time as a land contract sale of a lot is in force the land contract vendee shall be considered to be the member of the Association, provided however this shall not apply to the Declarant.

Section 2. The Association shall issue shares of stock to its members in accordance with the terms of this Article. Each member is entitled to a number of votes equal to the number of shares of stock held by him.

A member shall be issued one share of stock for each lot in which he holds the interest required for membership. When more than one person holds any such interest in any lot all such persons shall be members but only one share of stock shall be issued per lot and such persons shall exercise the one vote attributable to such share as they among themselves determine. Notwithstanding the foregoing, the Declarant shall be entitled to three shares of stock for each lot in which it holds the interest required for membership in order to assure the orderly development and maintenance of the Common Area; provided however that upon the happening of either of the following events, whichever occurs earlier:

(A) When the total votes of the members, excluding the Declarant, equal the total votes outstanding held by the Declarant, or

(B) On December 1, 1980

the Declarant shall assign back to the Association two shares of stock for each lot in which it hold an interest as defined above .

Section 3. Upon the sale of a lot with a house constructed thereon by a Builder-Purchaser to a Purchaser-Member the Declarant shall assign one of the shares of stock attributable to said lot to said Purchaser-Member and the balance of said shares shall be assigned back to the Association.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

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

The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot within the Properties by acceptance of a deed therefor, whether or not it shall be so expressed in such deed or other conveyance, is deemed to covenant and agree to pay to the Association:

(a) Annual assessment or charges, and

(b) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual and special assessments, together with interests, costs of the action, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable collection and attorney's fees, shall be the personal obligation of the person(s) who was the Owner of such Property at the time when the assessment fell due, provided however, anything to the contrary notwithstanding, in the case of a Lot which has been sold on land contract by the Declarant to a Builder-Purchaser the personal obligation for the assessments shall be that of the Builder-Purchaser prior to a sale to a Homebuyer-Member. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance by a Builder-Purchaser of the first Lot to an Owner, the maximum annual assessment per Lot shall be Fifty (\$50.00) Dollars per Lot.

(a) From and after January 1 of the year immediately following the conveyance by a Builder-Purchaser of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than Five (5%) Percent above the maximum assessment for the previous year

without a vote of the membership.

- (b) From and after January 1 of the year immediately following the conveyance by a Builder-Purchaser of the first Lot to an Owner, the maximum annual assessment may be increased above five (5%) percent by a vote of two-thirds (2/3) of the members excluding the Declarant, who are voting in person or by proxy, at a meeting duly called for this vote and the affirmative vote of the Declarant.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members excluding the Declarant who are voting in person or by proxy at a meeting duly called for this purpose and the affirmative vote of the Declarant.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days, nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of the Declarant and of members or of proxies entitled to cast sixty (60%) percent of all the votes of the membership, excluding the Declarant, shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, provided however, anything to the contrary notwithstanding, until a Lot is occupied by a Home Buyer member the annual assessment charge applicable thereto may be fixed at a reduced amount as uniformly determined by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. 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. Written notice of the annual assessment shall be sent to every Owner subject thereto. Annual assessments shall be due prior to March 1 of each year, from all Owners of record on January 1 of each year. 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 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assesment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 percent per annum. The Association may bring an action of law against the Owner personally obligated to pay the same, or foreclose the lien against the Property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessment(s) provided for herein shall be subordinate to the lien of any first

mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien 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 assessments thereafter becoming due or from the lien thereof.

ARTICLE V
BUILDING AND USE RESTRICTIONS

Section 1. Residential Lots. All of the above Lots shall be used for residential purposes only, and for no other purpose whatsoever.

Section 2. Nuisances. No noxious or offensive activity shall be carried on upon any of the Lots in said Subdivision nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. Side Yards, Rear Yards, Setbacks and Attached Garages. Two car garages shall be erected simultaneously with the house and all garages shall be attached to the house or connected thereto by a breezeway, and accordingly, for the purpose of complying with side yard and set back requirements, all attached garages shall be considered an integral part of the dwelling. Garages shall be erected and maintained only for the private use of the occupant of the dwelling.

Except as may otherwise be permitted by the appropriate officials of the Township of Avon no building shall be located on any Lot nearer than thirty (30) feet to the front line, or nearer than seven (7) feet to any side lot line. Garage locations on corner Lots shall conform to dwelling setback requirements. Minimum distance between houses shall be fifteen (15) feet.

Section 4. Reciprocal Negative Easements. No mutual or reciprocal negative easement shall be deemed to arise or be created hereunder with respect to any lands situated without the boundaries of said Brookdale Woods Subdivision.

Section 5. Floor Area Requirements. A one story building shall contain not less than 1,300 square feet of living area on the first floor. In the case of two story buildings, bi-levels, split levels, tri-levels and one and one-half story homes; the building shall contain not less than 1,600 square feet of living area for all floors combined other than the basement floor, and not less than 550 square feet of furnished area on the upper portion. Garages and open porches whether or not enclosed and heated, shall not be included in computing square foot areas.

Section 5A. Building Material Requirements. The exterior front and side elevation walls of all one story (ranch) buildings including all enclosed heated areas and garages shall be constructed of a minimum of seventy (70) percent Natural Stone, Pressed Brick, or other brick of equal quality, window area excluded. No single story (ranch) dwelling constructed entirely of frame or shingle will be permitted. In every dwelling type, one and two story alike, aside from the portion of the basement wall that remains exposed because of grade conditions, no unfinished cinder (without stucco, or similar material), concrete blocks, or poured concrete wall may be used in the exposed portion of external walls. No asbestos siding may be used in the exterior walls of any dwelling or garage.

Section 6. Lot Size. In the event one or more Lots or part of Lots are developed as a unit, all restrictions herein contained shall apply to such resulting unit as to any single lot. In any event, no dwelling shall be erected, altered, placed or permitted to remain on any site having a width of less than 75 feet at the building line and an area of less than 9,375 square feet. The preceding Lot width and area requirements shall apply to all Lots covered by these restrictions unless a Lot as originally platted is less than this prescribed width and area.

Section 7. Temporary Structures. No structure of a temporary character, trailer, tent, shack, barn or other outbuildings shall be placed or erected on any Lot at any time either temporarily or permanently, except a

structure to be used by builders for storage of materials during construction period.

Section 8. Signs. No sign of any kind shall be displayed to the public on any Lot except one professional sign of not more than one square foot, or one sign of not more than five square feet advertising the property for sale or rent. Anything to the contrary notwithstanding this restriction shall not apply to signs used by a builder to advertise the property for sale or rent during the construction and sales period.

Section 9. Inoperative Vehicles. No inoperative vehicles or commercial vehicles, recreational vehicles, house trailers or mobile homes, boats and boat trailers shall be permitted to be parked or stored on any Lot in said Sub-division unless such vehicles are parked or stored in a garage on said Lot which conforms to the requirements pertaining to the construction of garages as set forth above.

Section 10. Fences. No property line fence, wall or screen of any kind shall be permitted to be erected, maintained or placed upon any Lot unless required by a governmental agency having jurisdiction in the premises.

Section 11. Livestock and Poultry. No livestock, animals or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept provided that they are not bred, kept or maintained for any commercial purpose.

Section 12. Sight Distances. No fence, wall, hedge or shrub planting which obstructs sight line at elevations between two and one-half and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of a street property line with the edge of a driveway. No tree shall be permitted

to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 13. Easements and the Maintenance Thereof. Except as may be otherwise provided herein, each owner shall maintain the surface areas of easements within his property to keep grass and weeds cut, to keep the area free of trash and debris and to take such action as may be necessary to eliminate or minimize surface erosion. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.

Section 14. Model Home and Sales Offices. Nothing herein contained shall be construed to prohibit the Declarant or its Builder-Purchasers or its Sales Agents from temporarily maintaining a real estate sales office in any model residence constructed on any Lot within the subdivision.

ARTICLE VI GENERAL PROVISIONS

Section 1. Enforcement: The Association, or any Owner, shall have the right to enforce, by any proceeding at law or equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability: Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no wise effect any other provisions hereof which shall remain in full force and effect.

Section 3. Amendment: The conditions, covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument

signed by not less than ninety (90%) percent of the Lot Owners and the Township of Avon. Any amendment changing or modifying this Declaration in whole or in part must be recorded.

Section 4. Annexation. Additional residential property and Common Area, other than that hereinafter referred to as proposed Brookedale Woods Subdivisions Nos. 2 and 3, may be annexed to the properties provided the consent of the Declarant and two thirds (2/3) of the remaining Lot Owners is obtained. Said annexation may be accomplished by recording, with the Oakland County Register of Deeds, an appropriate amendment to this Declaration, signed by the Declarant, reciting that the aforesaid consent has been obtained and said instrument shall provide that all of the Common Areas in each of the Subdivisions shall be for the use and benefit of all residents of said Subdivisions and that the Lots in said annexed Subdivision(s) shall be subject to the within Declaration, including but not limited to the requirements for payment of assessments and mandatory membership in the Brookedale Woods Homeowners Association.

Anything to the contrary notwithstanding Declarant may annex to the properties the Common Areas and Lots in proposed Brookedale Woods Subdivisions Nos. 2 and 3 by recording the aforesaid appropriate amendment to this Declaration, except that in this case the consent of two thirds (2/3) of the remaining Lot Owners shall not be required. The overall legal descriptions of said proposed Brookedale Woods Subdivisions Nos. 2 and 3 are contained on Exhibit B attached hereto and made a part hereof.

Section 5. FHA/VA Approval. As long as there is a voting control of the Association in the Declarant, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Amended Subdivision Open Space Agreement. The Declarant and all Lot Owners are also governed by and subject to the terms and conditions of

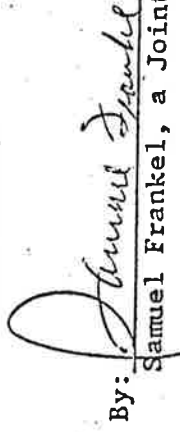
an agreement entered into with the Township of Avon dated
entitled "Amended Subdivision Open Space Agreement" and recorded in Liber
Pages , Oakland County Records.

IN WITNESS WHEREOF, the respective parties have hereunto affixed
their hands and seals the day and year first above written.

WITNESSED:

FRANKEL-SMOKLER INVESTMENT COMPANY,
a Joint Venture


Richard L. Komer

By: 
Samuel Frankel, a Joint Venturer


Denyse Jill Benton

STATE OF MICHIGAN) ss.:
COUNTY OF OAKLAND)

On the 22 day of December, 1976, before me the sub-
scriber, a Notary Public in and for said County, appeared SAMUEL FRANKEL, who,
being by me duly sworn, did say that he is a Joint Venturer of FRANKEL-SMOKLER
INVESTMENT COMPANY, a Joint Venture, and that said instrument was signed in
behalf of said Joint Venture and acknowledged said instrument to be the free
act and deed of said Joint Venture.


Denyse Jill Benton , Notary Public
Oakland County, Michigan
My Commission Expires: 11/6/77

DRAFTED BY ~~AND WHEN RECORDED~~
~~RETURN TO:~~

Richard L. Komer, Esq.
2900 West Maple Road
Troy, Michigan 48084

WHEN RECORDED RETURN TO:

TOWNSHIP OF AVON
P. O. BOX 250
ROCHESTER, MI 48063

EXHIBIT "A"

BROOKDALE WOODS, A PART OF THE N.E. 1/4 Section 7, T.3N., R.11 E., Avon Township, Oakland County, Michigan, described as; beginning at the North-east corner of said Section 7; thence S.00°13'40"E. 625.92 Feet along the east line of said Section 7; said line also being the center line of Adams Road; thence N.89°52'20"W. 1216.68 feet; thence S.00°05'50" E. 388.70 feet; thence S.44°19'42"W. 110.69 feet; thence N.53°10'43"W. 125.08 feet; thence N.50°36'50"W. 185.00 feet; thence S.41°13'33"W. 167.95 feet; thence S.87°44'54"W. 145.31 feet; thence S.45°17'32"W. 319.94 feet; thence S.61°45'00"W. 340.00 feet; thence N.20°15'38"W. 113.97 feet; thence S.77°43'44"W. 9.65 feet; thence N.00°02'17"E. 1307.30 feet to a point on the North line of said Section 7, said line also being the center of Tienken Road; thence along said line N.89°53'20"E. 2364.79 feet to the point of beginning and consisting of 116 lots and private open spaces No.1 thru 5 inclusive and containing 47.253 acres.

EXHIBIT "B"

A part of the East $\frac{1}{4}$ of Section 7, T3N, R11E, Avon Township, Oakland County, Michigan, described as: Beginning at the East $\frac{1}{4}$ corner of said Section 7; thence S. $00^{\circ}04'21''$ W. 1455.26 feet along the East line of said Section 7; thence S. $89^{\circ}59'19''$ W. 1236.59 feet to a point on the East line of "Bellarmine Hills", as recorded in Liber 82, Page 24, Oakland County Records; thence along the East line of said "Bellarmine Hills" N. $00^{\circ}40'05''$ E. 1472.17 feet to a point on the North line of said "Bellarmine Hills"; thence along the North line of said "Bellarmine Hills" N. $89^{\circ}09'20''$ W. 1155.23 feet; thence N. $00^{\circ}02'17''$ E. 2464.08 feet to a point on the North line of said Section 7; thence along said line N. $89^{\circ}53'20''$ E. 2364.79 feet to the Northeast corner of said Section 7; thence S. $00^{\circ}13'40''$ E. 625.92 feet along the East line of said Section 7; thence N. $89^{\circ}52'20''$ W. 1216.68 feet; thence S. $00^{\circ}05'50''$ E. 629.19 feet; thence S. $89^{\circ}38'00''$ E. 1218.14 feet to a point on the East line of said Section 7; thence along said East line S. $00^{\circ}13'40''$ E. 1250.10 feet to the point of beginning, excepting therefrom that parcel known as "Brookdale Woods Subdivision", which subdivision is described as follows:

A PART OF THE N.E. $\frac{1}{4}$ Section 7, T.3N., R.11 E., Avon Township, Oakland County, Michigan, described as; beginning at the Northeast corner of said Section 7; thence S. $00^{\circ}13'40''$ E. 625.92 Feet along the east line of said Section 7; said line also being the center line of Adams Road; thence N. $89^{\circ}52'20''$ W. 1216.68 feet; thence S. $00^{\circ}05'50''$ E. 388.70 feet; thence S. $44^{\circ}19'42''$ W. 110.69 feet; thence N. $53^{\circ}10'43''$ W. 125.08 feet; thence N. $50^{\circ}36'50''$ W. 185.00 feet thence S. $41^{\circ}13'33''$ W. 167.95 feet; thence S. $87^{\circ}44'54''$ W. 145.31 feet; thence S. $45^{\circ}17'32''$ W. 319.94 feet; thence S. $61^{\circ}45'00''$ W. 340.00 feet; thence N. $20^{\circ}15'38''$ W. 113.97 feet; thence S. $77^{\circ}43'44''$ W. 9.65 feet; thence N. $00^{\circ}02'17''$ E. 1307.30 feet to a point on the North line of said Section 7, said line also being the center of Tienken Road; thence along said line N. $89^{\circ}53'20''$ E. 2364.79 feet to the point of beginning and consisting of 116 lots and private open spaces No.1 thru 5 inclusive and containing 47.253 acres.