

***BANNISTER LAKES
HOMEOWNERS ASSOCIATION
RESTRICTIONS***

BANNISTER LAKES SUB #1 Liber 76, Page 6 Nov 15th 1979
BANNISTER LAKES SUB #2 Liber 76, Page 17 Jan 8th 1980
BANNISTER LAKES SUB #3 Liber 76, Page 19 Jan 8th 1980
CEDAR LAKES SUB #2 Liber 75, Page 20 Aug. 31st 1979

FIFTH AMENDMENT
2019

**BUILDING RESTRICTIONS
USE RESTRICTIONS
AUXILIARY CONSTRUCTION RESTRICTIONS**

These Amended Building Restrictions, Use Restrictions, and Auxiliary Construction Restrictions of the Bannister Lakes Homeowners Association supercede and replace the previous original 1987 Restrictions and three amendments recorded in 1993, 1995 and 1997. The original 1987 Restrictions were recorded on November 12th, 1987 on Liber 4320, pages 933 through and including page 942. The first amendment was recorded on April 30th, 1993 on Liber 5831, page 943 through and including page 962. The second amendment was recorded on June 1st, 1995 on Liber 6659, page 740 and 741. The third amendment was recorded on September 19th, 1997 on Liber 7642 page number 496 and 497. The fourth amendment was recorded on February 8th, 2005 on Liber 16376 page 122 through and including page 159.

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PART 1 BUILDING RESTRICTIONS

**ARTICLE I
BUILDING RESTRICTIONS**

SECTION 1. No building or other structure shall be erected, altered, moved onto or permitted on any lot in the Association other than a single family dwelling house with an attached or integral garage, not to

exceed two (2) stories in height above the ground level (grade) per lot. Any garden tool shed swimming pool, tennis court, badminton court, walls or fences and such other auxiliary construction must be approved in a written opinion of the Bannister Lakes Homeowners Association. All auxiliary construction must be in harmony and in conformance with the character and aesthetics of the Association. These restrictions may be erected in such manner and location as the Association in its sole and absolute discretion may permit in writing. All attached and integral garages shall be designed and constructed of the same materials as the dwelling and shall conform to the same architectural design. The single-family dwelling house shall be designed and erected for occupation by, and occupied by, one (1) single family. A family shall mean one person or group of two or more persons, living together and interrelated by bonds of consanguinity, marriage or legal adoption, together with their children, any legal ward or wards, and one other person.

SECTION 2. In addition to the general restrictions contained herein, no building or structure shall be erected, altered or permitted in any part of the Association except it shall also conform to the provisions of any zoning ordinance enacted by Charter Township of Shelby wherein such part of the Association may be situated which may be applicable and in effect at the time of actual construction. It is provided that any departure or deviation from the provision of such zoning ordinance permitted as provided by and in accordance with said ordinance may be made with the approval in writing of the Bannister Lakes Homeowners Association but not otherwise, and provided further, that no approval of any such departure or deviation shall constitute approval of departure or deviation of these restrictions other than the requirement of this paragraph.

SECTION 3. No family shall, either before or after the completion of their dwelling house, live in any temporary or detached structure or vehicle of any kind or in any manner, located on their lot.

ARTICLE II TYPES OF DWELLINGS

No single family dwelling house shall be permitted, erected or altered on any lot in the Bannister Lakes Homeowners Association unless it shall have such area and be of such size as hereinafter set forth:

- (a) A one-floor dwelling (one which has 85% or more of its livable heated and enclosed area on the main or ground floor) shall have not less than 2,000 square feet of finished living area on such main or ground floor level.
- (b) A one and one-half story dwelling (one which has its principal living, dining and service areas and, optionally, a portion of its sleeping areas on the main or ground floor and additional sleeping or living areas on a level directly above such main floor) shall not have less than 2,400 square feet of finished living area with not less than 1,500 square feet on the main floor.
- (c) A two story dwelling (one which has its principal living, dining and service areas on the main or ground floor and additional living or sleeping areas on a level directly above such main floor) shall have not less than 2,600 square feet of finished living area and with not less than 1,300 square feet on the main floor.
- (d) A bi-level dwelling (one which has its principal entrance and its principal living, dining sleeping areas at or on the main or ground floor level and additional living or sleeping areas on a level directly below such main floor) shall have not

less than 2,400 square feet of finished living area with not less than 1,200 square feet on the main floor.

- (e) A tri-level or multi-level dwelling (one which has its principal living, dining and service areas on the main or ground floor level and additional living and sleeping areas adjacent to and above or below such main floor level) shall have not less than a total of 2,400 square feet of finished living area with at least 900 square feet on the entrance level.
- (f) “Service Areas”, as used herein, shall mean the area utilized for the preparation, storage, refrigeration and cooking of food or drink, for laundry purposes and similar domestic activities.
- (g) “Main or ground floor level”, as used herein, shall mean the floor or level which is substantially grade level of the entrance facing the road or street on which such dwelling fronts.
- (h) “Living area”, as used herein, shall include the actual area within the outer surfaces of the outside walls, excluding areas in any garage, basement, unheated porch, breezeway or entrance way, but may include any finished and heated living area which is above such enclosed or unheated porch, basement, breezeway or garage.

ARTICLE III SUBMITTAL OF PLANS FOR CONSTRUCTION

All plans of building to be constructed and finished grades must be submitted to the Bannister Lakes Homeowners Association for inspection prior to beginning any construction. A copy of such plan is to be lodged permanently with the Association or its successor, who shall not give their written approval of any such proposed dwelling, finished grades, or other construction unless in their opinion, upon being completed in accordance with such plan specifications, such dwelling or construction shown thereby will comply in all respects with the restrictions set forth herein and the external design, color and materials and location thereof will be in harmony with the character and aesthetics of the topography and grade elevations, not only of the lot upon which the proposed construction is to take place, but also of the neighboring lots and structures. It is understood and agreed that the purpose of this paragraph is to cause the platted lands to develop into a beautiful, harmonious high-quality private residential section, and if a disagreement on the points set forth in this paragraph should arise, the decision of the Bannister Lakes Homeowners Association or its successor shall control.

ARTICLE IV COMPLETION OF CONSTRUCTION

The erection of any new building structures authorized as provided herein and the re-erection, re-building or repair of any of such structures damaged by fire, storm or other casualty shall be pushed to completion as rapidly as possible pursuant to plans and specifications as approved herein. They shall include a schedule of specifications and construction that will indicate an approximate date for the substantial completion of:

- (a) Foundations
- (b) Rough construction (to include framing, roofing, and all exterior finish)

- (c) Finish
- (d) Finish or final grade and landscaping plan

Should the owner fail to make substantial progress for a period of six months, or if final completion of the project does not occur within ten months, then the Association is hereby authorized and empowered either to tear down and clear from the premises the uncompleted portion of such structures, or to complete the same, at their discretion, and in either event all reasonable expenses incurred shall be charged against the land against the owner's interest therein and shall be a lien upon said land, premises and interest and enforced as provided herein.

ARTICLE V SITE CLEAN-UP

All unused building materials and temporary construction shall be removed within thirty (30) days after final completion of the construction. The portion of the surface of the earth which is disturbed by excavation and other construction work shall be finished, graded and seeded, sodded or covered with other landscaping, pursuant to the established and approved landscaping plan, as soon as construction work and weather permits but not to exceed ten (10) months. The surface shoulders, ditches, and back slopes of all roads shall be restored to the same condition as when construction commenced and any repairs or remedial work required by the Association or the Public Road authorities shall be done promptly and at the entire expense of the lot owner. All landscaping shall be properly maintained to uphold the property values in the subdivision.

ARTICLE VI DRAINAGE REGULATIONS

SECTION 1. Easements and rights-of-way for drainage purposes are hereby reserved as shown on the recorded plat.

SECTION 2. The size, surface area and storage capacity of the drainage area, as originally constructed shall not be decreased or in any way encroached upon by the lot owner.

SECTION 3. The appropriate governmental agency or its authorized representative shall have the right to enter upon the drainage area for purposes of maintenance and repair of the same, including the right of ingress and egress over and across the properties of adjoining land owners.

SECTION 4. The easements and restrictions concerning drainage shall continue in full force and effect and shall in no way be deleted or diminished except upon approval of the Macomb County Drain Commission.

ARTICLE VII

LOT BUILDING PLACEMENT

All dwelling erected on any lot shall be located no less than twenty-five (25) feet from the front lot line which shall be established as the building line for the street. On any lot having a curved front line, the dwelling shall be located at a minimum of twenty-five (25) feet from the middle point of the front lot line. Projections forming a part of the residence shall be construed as part of the residence and must be constructed within the building line. Bay windows, vestibules, sun parlors, enclosed porches and other attached and enclosed structures and projections shall be constructed as part of the residence. All single residential dwellings in this subdivision shall be erected as to provide a minimum of eighteen (18) feet of side yard with at least eleven (11) feet on one side and seven (7) on the other side. Garages, auxiliary construction and drainpipes shall not be allowed to encroach on the side yard requirements herein. All houses shall face the street abutting said lot which shall be in front lot line for each lot and the grade line of all residential buildings constructed on any street of this subdivision shall not be less than twelve (12) inches above established street grades.)

ARTICLE VIII

UTILITY EASEMENTS

SECTION 1. There are hereby reserved unto the Bannister Lakes homeowners Association, their heirs, successors, personal representatives and assigns, easements and right-of-way as shown on the recorded plat for the installation and maintenance of drains, wires, pipes, pole guy wires or conduits for supplying drainage, electricity, light, gas, water, heat or any public or quasi-public utility deemed necessary by the Association or any governmental authority having jurisdiction. The use of said easements or rights-of-way might be licensed or allowed to any firm or corporation, which shall furnish such service.

It is the intent and purpose of the Association to have all utilities, electric distribution lines, telephone and cable communication lines installed underground instead of overhead and to provide for certain rights and benefits to the utilities furnishing said service underground.

SECTION 2. The Bannister Lakes Homeowners Association hereby declares that said premises shall be held, transferred, sold and conveyed subject to the restrictions, covenants, reservations, easements, charges, obligations and powers as follows:

- (a) Private easements for public utilities have been granted on the plats of Cedar Lakes Subdivision #2 and Bannister Lakes Subdivision #1, #2 and #3.
- (b) No excavations (except for public utility purposes), nor changes of finished grade, and no structures or apparatus of any kind (except small portable structures without foundations) shall be allowed within the platted public utility easements of the subdivision. Except as provided herein, the owners shall have the right to make any use of the land, subject to such easement, which is not inconsistent with the right of the utility, provided however, that the owner shall not plant trees or large shrubs within the

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

- (c) Shrubs or foliage shall be permitted on owner's property within five (5) feet of the transformer enclosure or secondary connection pedestals provided that serviceability of transformers is maintained.
- (d) The original or subsequent owner of lots in this Association shall own, install, maintain and replace, at their own expense, the single phase electric service conductors connecting the transformers or secondary connection pedestals located in said easements with the residences erected on said lots.
- (e) The installation of all underground electric service conductors shall comply and conform to the National Electric Code or other similar electrical code as may be imposed by law and to the specifications of the public utility concerned.
- (f) All property in the Association which will receive telephone service by connection with underground telephone facilities located in the easements of the subdivisions shall make no change in grade in or near such utility easements when the change in grade, in the opinion of the utility, interferes with the facilities already installed or which may be installed in the future.
- (g) All cable communication service lines shall be located underground with no cables or lines visible above ground.
- (h) The foregoing restrictions, a through g, shall be covenants running with the land and shall not be subject to termination without the mutual consent of the utility hereto concerned.

PART 2 USE RESTRICTIONS

PREAMBLE

The Bannister Lakes Homeowners Association, through its Board of Directors, is charged with the responsibility of enforcing the use restrictions of the Association. To assist both the Board of Directors and the homeowner in making equitable and speedy determinations in these matters, the following restrictions have been adopted by the Association for guidance of future usage procedures, approval of, and in making determinations in event of a known violation.

ASSESSMENT OF FINES

Section 1. **General.** The violation by any owner, occupant or guest of any of the provisions of the Bannister Lakes Homeowners Association including and duly adopted rules and regulations shall be grounds for assessment by the Bannister Lakes Homeowners Association. Such owner shall be deemed

responsible for such violations whether they occur as a result of his personal actions or the actions of his family, guest or any other person admitted through such owner's premises.

Section 2. **Procedures.** Upon any such violation being alleged by the Board, the following procedures will be followed:

- a) **Notice.** Notice of violation, including the Bannister Lakes Homeowners Association document provision violated, together with a description of the factual nature of the alleged offense set forth with such reasonable specificity as will place the owner on notice as to the violation, shall be sent by first class mail, postage paid, or personally delivered to the representative of said owner at the address as shown in the notice.
- b) **Opportunity to defend.** The offending owner shall have an opportunity to respond to the Board and offer evidence in defense of the alleged violation. The response time to the Board shall be as stated on the violation notice.
- c) **Default.** Failure to respond to the notice of violation constitutes a default.
- d) **Decision.** Upon response by the owner to the Board and presentation of evidence of defense, or, in event of the owner's default, the Board shall, by majority vote of the Board, decide whether a violation has occurred. The Board's decision is final.

Section 3. **Amounts.** Upon violation of any of the provisions of the Bannister Lakes Homeowners Association documents and after default of the offending owner or upon the decision of the Board as recited above, the following fines shall be levied:

- a) First Violation. No fine shall be levied
- b) Second Violation. Twenty-five dollar (\$25.00) fine.
- c) Third Violation. Fifty dollar (\$50.00) fine.
- d) Fourth Violation and Subsequent Violations. One Hundred dollars (\$100.00) fine.

Section 4. **Collection.** The fines levied pursuant to Section 3 above shall be assessed against the owner and shall be due payable to the Bannister Lakes Homeowners Association within a 30 day period. All fines collected will be deposited to the Association General Maintenance Account. Failure to pay fines will subject the owner to all liabilities set forth in the Bannister Lakes Association documents including, without limitations, those described in the 2005 Articles of Incorporation and By-Laws Article XI, Section 2.

ARTICLE I REFUSE AND TRASH

Every lot owner shall promptly dispose of all his refuse and garbage so that it will not be objectionable to neighboring lot owners, and shall not use his lot as a dumping ground for rubbish, trash or garbage. All outside storage of refuse must be in a durable non-metal reusable sanitary container. No outside incinerator shall be built, maintained or used within the Association. No household trash, paper, boxes, leaves, or yard

waste, garbage or other refuse shall be burned, collected, or permanently accumulated or stored on any lot. Any temporary storage of refuse or trash prior to pick-up shall be placed in containers or receptacles specifically provided for that purpose. Such containers may not be placed by the roadside for collection for more than twelve (12) hours prior to pick-up, and shall be removed from public view within twelve (12) hours after pick-up.

ARTICLE II ANTENNAS AND DISCS

SECTION 1. No television, radio, or other antenna, larger than the normal and of conventional type usually attached to dwellings for metropolitan Detroit reception is allowable. The mast of such, shall not exceed eight (8) feet in height and a boom not exceeding six (6) feet in length, shall be erected on or attached to any structure or installed in or upon any land within the Association.

SECTION 2. Satellite discs of a size greater than one meter (thirty-nine and ¼ inches) in diameter are specifically prohibited on any lot within the Association. Satellite discs must be installed on the rear or the rear half of the side, of the residence of the member purchasing a satellite disc system. They must be discretely installed and hidden from public view from the street.

ARTICLE III PARKING AND STORAGE

SECTION 1. No Boat (s), tractor (s), airplane (s), mobile home (s), pick-up (s), camper (s), automobile (s), trailer (s), truck (s), or other such bulky vehicles, or tools or mechanical equipment of like kind, shall be stored, repaired, reconditioned, sold or manufactured on any lot in the Association.

SECTION 2. No parking shall be permitted except upon the driveways and such parking shall only consist of pleasure motor vehicles, and those specified in Sections 3 and 4. On street parking is prohibited except for occasional visitors to a member's residence. Occasional is defined as not more than 4 days within any 30 day time period. Exceptions must be submitted in writing and approved by the Board. If there are multiple visitor vehicles they must be parked on the same side of the street. Overnight on street parking is prohibited, except for a 24 hour grace period.

SECTION 3. *Parking of recreational units.* Recreational units include, but are not limited to, any recreational vehicle, camper enclosure, utility trailer, snowmobile or motorized watercraft. Unless housed within a garage, no person shall park or store any recreational unit on the premises, except that one recreational unit may be parked in the driveway for a period not to exceed seventy-two (72) hours for purpose of loading, unloading, trip preparation and routine maintenance and repair except that at no time shall any unmounted camper enclosure or any watercraft not mounted on a trailer be parked or stored on the premises.

SECTION 4. *Parking of commercial motor vehicles.* Not more than one small commercial motor vehicle owned and/or used by the occupant of the premises may be parked on the premises. Said vehicle can be a passenger car, pickup, or van (no larger trucks), and, when not in daily use or currently licensed, shall be housed within a garage. In instances when said vehicle is not required to be housed, it shall be parked in a residential driveway behind the required building setback line only.

SECTION 5. *Parking and storage of commercial trailers.* No such trailer, regardless of its size, shall be parked or stored on the premises.

ARTICLE IV SIGNS

No signs, posters, billboards or other advertising devices or symbols shall be erected or displayed on any lot, structure or fences therein, except one (and no more) “For Sale” sign advertising the dwelling for sale, or a personal message sign for a period not to exceed ten (10) days. Such signs as may be permitted shall not exceed four (4) square feet in area and must be maintained in good condition at all times. Political signs are limited to (1) one sign per party and must comply with applicable Shelby Township ordinances.

ARTICLE V NOXIOUS OR OFFENSIVE ACTIVITY

No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. Noxious or offensive activity is defined to include but not limited to, improper behavior by any member or family member, against another member resident and their family.

ARTICLE VI HOME BUSINESS

No business shall be conducted upon any lot within the Association. A business is defined as conducting a business on any lot on the outside of the member’s home and is strictly prohibited. Any business conducted within the home of a member is permissible except that an in-home business can not cause an annoyance or nuisance within the subdivision, to any other member. Increased or excessive motor vehicle traffic within the subdivision caused by the operation of business inside a member’s home is strictly prohibited.

ARTICLE VII ANIMALS AND PETS

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats, or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose and provided that they are properly restricted so as not to be harmful or a nuisance to others in the

Association. Outside housing of pets shall not be permitted in the Association. No doghouses or pet runs shall be allowed in the Association.

ARTICLE VIII MAILBOXES

Mailboxes and posts must be constructed in accordance with postal regulations and shall be aesthetically pleasing. Rusted and/or damaged mailboxes must be repaired or replaced immediately.

ARTICLE IX FIREWOOD

Firewood must be stored in an orderly manner off the ground and in a location that is not visible from the street. No homeowner shall store more than one (1) full cord of wood on the premises at any time.

ARTICLE X LANDSCAPING AND LAWNS

All landscaping and lawns shall be aesthetically pleasing and properly maintained to uphold the property values in the subdivision.

ARTICLE XI BUILDING MATERIALS

No used material building may be used for construction within the Association except reclaimed brick.

ARTICLE XII AUXILIARY POWER SOURCES

The permanent installation of auxiliary power sources shall be made in a manner to conceal such installation from view from the street and to maintain the peace and harmony of the Association. Auxiliary power sources are defined to include gasoline powered generators, natural gas powered generators, solar panels for the collection of electrical energy, wind powered generators and any other system of auxiliary power as may become available in the future. Solar panels and wind powered generators are specifically prohibited. The operation of temporary auxiliary power sources during times of electrical outages is permitted but must be removed from view of the public after electrical power is restored.

ARTICLE XIII EXTERIOR REPAIR AND MAINTENANCE

Timely reconstruction and Repair. If damage occurs that adversely affects the appearance of a member's property, the owner shall proceed with repair or replacement of the damaged property without delay and shall complete such repair or replacement within 3 months after the date of the occurrence which caused damage to the property. Extensions for good cause can be granted by the Board.

ARTICLE XIV LAKE USE RULES

The following rules pertaining to the use and regulation of Bannister and Hawkins Lakes are adopted:

Section 1. In order to provide for the cleaning, dredging, maintaining or improving of the lakebed, owners of each lake lot shall be required to be a member of the Bannister Lakes Homeowners Association which has jurisdiction over the lakes and its use. Lake lot owners shall pay a pro-rata assessment for costs or expenses in maintaining the lakes, and assessments shall be the liens upon the land and the lot to which they are assessed.

Section 2. No lot shall be increased or decreased by altering the natural shoreline without prior approval of the Michigan Department of Natural Resources or its successor.

Section 3. No dock or structure of any kind shall be installed more than ten (10) feet from the shoreline without prior approval by the Michigan Department of Natural Resources or its succeeding State Agency.

Section 4. Swimming rafts shall be subject to approval by the lake committee and kept maintained by the owner of the raft.

Section 5. Owners are responsible to maintain their beach wall areas. Beach wall areas must be maintained in order to present an aesthetically pleasing and uniform appearance around the lake. Beaches must be kept clear of weeds and debris. In the event the owner fails to keep their beach clear of weed and debris, the Association has the authority to enter the property and have the weeds and debris removed. The owner will be charged the cost of such weed and debris removal.

Section 6. Manually powered boats, rafts and canoes may be used on Bannister Lake and Hawkins Lake. No power-propelled craft of any description are permitted, including snowmobiles. Service persons providing maintenance or service to or on the lake are exempted from this restriction provided any motor used is of small power and quiet.

Section 7. No lot may be used for the purpose of permitting access to the lake by any person other than household members and invited guests, provided an adult household member is physically present with them. Service persons providing maintenance or service to or on the lake are exempted from this restriction.

Section 8. Property owners are responsible for the physical safety of any guests.

Section 9. No person shall deposit anything in Bannister Lake or Hawkins Lake.

PART 3 AUXILIARY CONSTRUCTION RESTRICTIONS

PREAMBLE

The Bannister Lakes Homeowners Association, through its Board of Directors, is charged with the responsibility of enforcing the Auxiliary Construction Restrictions of the Association. Auxiliary construction that is in harmony and conformance with the character and aesthetics of the Association may be erected in such manner and location as the Board of Directors may permit in writing. Auxiliary construction includes but is not limited to any addition to an existing building, any exterior alteration, modification or change to an existing building or any new building, or any detached structure such as garden sheds, swimming pools, tennis courts, badminton courts, walls and fences. To assist both the Board of Directors and the homeowner in making equitable and speedy determinations in these matters, the following procedures have been adopted by the Board of Directors for approval of auxiliary construction.

ARTICLE I

PROCEDURE FOR APPROVAL OF AUXILIARY CONSTRUCTION

SECTION 1. All applications for auxiliary construction or structures must be submitted to the Board of Directors of the Association in writing. The application must include the name and address of the applicant and must be signed. The application must include all information necessary for the Board to take action, including but not limited to the height, width, length, size, shape, color, material and location of the proposed improvement. A drawing or sketch of the proposed improvement must be included. Photographs or sketches of similar completed projects will assist in visualizing the proposed project. If the alteration affects the existing drainage pattern, the proposed drainage pattern must be included.

SECTION 2. All applications will be reviewed by the Architectural committee which will submit its recommendation for approval or rejection of the proposed auxiliary construction to the Board of Directors, in writing, with its reasons for said approval or rejection. The Architectural committee shall, after review of the application, conduct whatever independent inquiries it deems appropriate to confirm, deny or supplement the information in the application.

SECTION 3. The homeowner must be advised of acceptance or rejection by the Board of Directors, within thirty (30) days of receipt of the request for the auxiliary construction by the Board of Directors. If the Board of Directors fail to respond within thirty days, the plans submitted shall be considered approved. All notices required hereunder shall be sufficient if made by first class mail to the address provided by the homeowner in his application for improvement. Service shall be completed upon mailing.

SECTION 4. In the event, a member commences an exterior home improvement project without making a proper application for approval before the work commences, the Board of directors will notify that member that he is in violation of the Auxiliary Construction Standards and must halt his project to allow the Association the proper time required to review the project. If the member continues with their project after being notified to halt the project, the Board shall pursue possible remedies against that member. The Association retains the remedy, among all other possible remedies, of entering a suit-at-law against that member for monetary damages, limited to but sufficient to cover the cost of bringing suit and any actual damages suffered by the Association. The member, along with the contractor may be sued jointly and severally liable for any monetary awards awarded to the Association. The cost of bringing suit includes but is not limited to, lawyer fees, service fees, recording fees, court costs, transportation and secretarial fees. As per 2005 By-Laws, Article XI, Remedies, Section 3, the Association may enforce collection of these expenses by a suit at law for a money judgment or by placing a lien against the member's property.

SECTION 5. In the event that a plan for proposed auxiliary construction is disapproved or if proposed auxiliary construction is of a type not allowed by the Association, application for a variance and/or appeal from a rejection may be made to the Board. This procedure is set forth in the variance and appeal procedures that appear below.

SECTION 6. After approval of a proposed project by the Board of Directors, the homeowner shall obtain all required building permits for the auxiliary construction as needed from Shelby Township. A building permit issued by Shelby Township does not eliminate the requirement of securing approval of an auxiliary construction project from the Board of Directors.

ARTICLE II
GENERAL CRITERIA AND GUIDELINES TO BE USED BY THE
BOARD OF DIRECTORS AND ITS ARCHITECTURAL COMMITTEE
IN REVIEWING PLANS FOR PROPOSED AUXILIARY
CONSTRUCTION

SECTION 1. Any addition, exterior alteration, modification, or change to an existing building shall be compatible with the design character of the original building. Any new detached structure shall be compatible with the parent structure.

SECTION 2. The materials selected for use in the exterior auxiliary construction of a member's home must be compatible with the architectural design character of the community and similar to colors and design within the Association. Any materials used must be approved by the Association.

SECTION 3. Changes of exterior colors used on a member home will be approved only if the proposed color is in harmony with the other existing homes within the Association.

SECTION 4. In general, only those areas that are painted may be repainted; only those areas that are stained may be re-stained; unpainted surfaces and unstained areas such as brick shall remain unpainted and unstained. Alternative, newer materials shall be considered on approval by the Association.

SECTION 5. The visibility of the structure from any residential street within the subdivision must be considered.

SECTION 6. The disruption to the quiet panoramic view of adjoining property owners must be considered.

SECTION 7. The potential reduction in property value of adjoining parcels and of any parcel within the subdivision if the structure is erected must be considered.

SECTION 8. The architectural compatibility of the structure with existing structures must be maintained.

SECTION 9. The size of the planned structure must be considered for its compatibility and harmony within the Association.

ARTICLE III
SPECIFIC CRITERIA AND GUIDELINES TO BE APPLIED BY THE
BOARD OF DIRECTORS AND THE ARCHITECTURAL COMMITTEE
IN REVIEWING APPLICATIONS FOR AUXILIARY
CONSTRUCTIONS

SECTION 1. SHELBY TOWNSHIP ORDINANCES

The requirements of all specific Shelby Township Ordinances governing the specific items that follow shall be included in the specific criteria and/or guidelines set forth hereafter without reference thereto, said criteria and/or guidelines being in addition to any Shelby Township Ordinance requirements.

SECTION 2. SWIMMING POOLS

- (a) No above ground pools shall be allowed within the Association.
- (b) All in ground swimming pools in the Association shall meet grade requirements and be of such a design, as described by the manufacturer's literature.
- (c) A full decorative protective fence shall encompass the perimeter with a minimum four (4) foot and a maximum five (5) foot height. It shall be made of decorative aluminum, composite, or wrought iron material, utilizing metal hinges, handles, locks, bolts and screws.
- (d) All pool equipment shall be hidden from view and be permanently installed.
- (e) For in ground pools, construction for the pool lining and apron shall be of concrete construction and the apron must be at least four (4) feet wide at its narrowest point. Vinyl lined pools will be approved provided they are a quality material, meeting a minimum ten (10) year warranty and all township standards.
- (f) All swimming pools within the Bannister Lakes Homeowners Association shall be maintained according to usable standards. Any pool that falls into disrepair shall be removed at the owners' expense.
- (g) The total pool construction shall be of a design that shall compliment the high aesthetic character of the Association.
- (h) The Association must approve any materials not mentioned in the above sections.
- (i) In ground swimming pool enclosures and domes are strictly prohibited.

SECTION 3. GARDEN SHEDS

- (a) There shall be no metal garden or storage sheds in the Bannister Lakes Homeowners Association.
- (b) The area of any garden or storage shed shall not exceed 150 square feet and be of one story construction with no one side shall be greater than fifteen (15) feet.
- (c) Any garden or storage shed shall be of a design and construction similar to the home on the lot and shall blend with the aesthetic harmony of the Association.
- (d) All Shelby Township requirements for erecting of accessory buildings must be complied with.
- (e) Members shall have no more than one (1) shed or outbuilding.

SECTION 4. ENCLOSED PATIOS

- (a) Enclosed patios must be attached to the rear of the house and be constructed with the same or similar materials.
- (b) The walls shall have a minimum of 30-inch knee wall of the same exterior material and color as the original home.
- (c) The remainder of the walls must be screened and/or glass or brick.
- (d) No fiberglass and/or aluminum enclosed patios shall be erected in the Association.

SECTION 5. OUTSIDE DECKS

- (a) All outside decks must be adjacent to or within one (1) foot of the house.

- (b) Outside decks must be constructed of a suitable exterior wood, stone, brick or composite wood material.
- (c) No metal or fiberglass material shall be used in the construction of outside patios.
- (d) Outside decks may be painted or have wood-tone stain applied. Color stain may be used but color of stain or color of paint must be harmonious with the color of the house.
- (e) The deck may not exceed in size twenty-five (25%) percent of the backyard.
- (f) Total deck construction shall not diminish the aesthetic character of the Association.
- (g) The deck shall be maintained in the same condition as when completed and shall not be allowed to deteriorate.

SECTION 6. FENCES

- (a) No boundary fences shall be allowed within the Association except for perimeter lots adjacent to 21 Mile rd, M-53 and the southern most perimeter of the Association.
- (b) The only fencing which will be allowed is fencing required for protection for in-ground swimming pools and perimeter fences as provided for above.
- (c) (Delete) Pool fencing shall be of a decorative type of colored aluminum metal with appropriate fastening hardware. No cyclone (chain link) shall be allowed in the Association.
- (d) Fences that are allowed in the perimeter lots of the Association shall be of wood or colored aluminum material, using appropriate metal fasteners and hardware. The color of these fences shall be in harmony with the residence of the lot owner and compatible with the entire Association .
- (e) All fencing is subject to review and approval of the Board of the Association.
- (f) All fencing shall be maintained in good condition or shall be removed if allowed to fall into disrepair.

SECTION 7. LANDSCAPING

- (a) Seventy five (75%) percent of the land area must be green growing grass and must be completed by the end of the first growing season after the homeowner takes occupancy or not to exceed 10 months from the first date of occupancy, whichever is earlier. All landscaped and grass areas must be kept free of obnoxious weeds of any species or variety.
- (b) Sod or seed may be planted without submittal of a plan to the Board of Directors.
- (c) Planting of trees and/or large shrubs may be done without approval from the Board of Directors. Trees and shrubs must be kept trimmed to not infringe on sidewalk pedestrian traffic. All dead trees, shrubs and stumps must be removed within one growing season. All tree removals must comply with the requirements of the applicable Shelby Township Ordinances.
- (d) Vegetable gardens must be kept from being unsightly and shall not exceed twenty-five (25%) percent of the backyard area. Vegetation not to exceed four (4) feet in height.

- (e) Neighborhood lawns, flower gardens, vegetable gardens, trees and shrub shall be kept neat, trimmed, watered to maintain proper growth, and as weed- free as possible. Grass areas must be edged along sidewalks, driveways and curbs. All lawn clippings and other debris must be cleaned up.
- (f) All landscaping work not included in the above must have approval from the Board of Directors.

ARTICLE IV APPEAL AND VARIANCE PROCEDURES

Whenever any member of the Association deems thyself aggrieved by a decision or determination of the Board of Directors or wishes an exception to, or exemption from, any previously established criteria or guidelines for auxiliary construction, the procedure contained herein shall apply.

SECTION 1. THE PETITION

There shall be prepared in writing, a letter to the Board of Directors of the Association, which shall contain the following:

- (a) The name and address of the member seeking the relief and his signature.
- (b) The decision or determination of the Board, or the criteria or guidelines for Auxiliary Construction from which relief is sought, and shall enumerate the relief sought.
- (c) A thorough description of the proposed auxiliary construction or structure desired, accompanied by detailed drawings and all information necessary for the initial application.
- (d) A list of all lots potentially affected by the proposed structure or development.
- (e) Any unique or special condition or needs of the petitioning member.
- (f) Potential impact upon adjoining property owners, specifically:
 - (1) The structures or development's visibility.
 - (2) The effect upon the peace and/or panoramic view of adjoining landowners.
 - (3) The effect, potential or otherwise, upon property values of adjoining or of any parcel within the subdivision.
 - (4) Aesthetic compatibility with existing structures.
- (g) Any other information the petitioner deems relevant.

SECTION 2. THE SERVICE OF THE PETITION

The petition shall be served upon the Board of Directors personally or by first class mail. The Board of Directors will notify any member listed in section 1. (d) Potentially affected by the projected auxiliary construction of the petition for a variance from the Auxiliary Construction Standards. If the petition seeks relief from a particular decision or determination of the Board, the petition must be served, as above, within thirty (30) days of that decision or determination.

SECTION 3. REVIEW AND DECISION OF PETITION

The Board of Directors shall, upon receipt of the petition, review the same, conduct whatever independent inquiries or investigations it deems appropriate to confirm, deny or supplement the information required by items (a) through (g) of Section 1 above.

Within 21 days of receipt of the petition, the Board of Directors shall conduct a meeting of those members affected by the projected auxiliary construction project. Notice of the meeting shall be by regular US mail.

The conduct of the meeting and the scope of inquiry shall be:

- (a) This hearing will be a re-examination of finds and recommendations made upon the first applications, or if the petition is an application for variance from the existing criteria or guidelines for auxiliary construction or structures, it will act as the initial inquiry.
- (b) Members in attendance shall be provided an opportunity to review any recommendations or decisions that may have previously been made by the Board of Directors. Further, the results of any independent inquiry or investigation made pursuant to the application for variance or appeal shall also be provided to any member in attendance.
- (c) An open meeting will be conducted where the petitioner can present any statement or information they deem necessary in the furtherance of the petition. This meeting will be for any affected homeowner but need not be a general meeting of the entire membership.
- (d) All interested homeowners, including the homeowner seeking relief, will be afforded a reasonable opportunity to express their position on the petition.
- (e) Within seven (7) days after the conclusion of this meeting, the Board of Directors shall serve the petitioner with a written decision granting or denying the request for relief setting forth written finds of fact, conclusions therefrom and an enumeration of the reasons underlying the decision. Service shall be sufficient if made by first class mail to the petitioner at the address provided in the petition for relief. Service shall be completed upon mailing.
- (f) The decision made by the Board of Directors shall be final.

ARTICLE V PURSUING INFRACTIONS TO AUXILIARY CONSTRUCTION STANDARDS

It shall be the responsibility of the Board of Directors to review infractions to the Auxiliary Construction Standards of the Association. The Architectural Committee may assist the Board in any investigation of any such infraction. Any such infraction and its consequent investigation may be initiated by a member's complaint or by an action of the Board without a complaint. Any complaint concerning an infraction to the Auxiliary Construction Standards sent to the Board of Directors must be in writing and signed by the member making such complaint. An e-mail message received by the Board, indicating the identity of the member making a complaint, is considered as meeting this requirement.

It is suggested that the members involved met and discuss the possible violation of the Auxiliary Constructions Standards and try to resolve the problem. However, in any event, this is not a requirement in making a complaint to the Board.

In pursuing the complaint, the Board of Directors will follow the procedure as described below:

1. The Board of Directors will inform the Association member and the contractor performing the work, in writing, that they are or may be in violation of the Auxiliary Constructions Standards of the Association.
2. The Board is authorized to request the member who is possibly in violation or in fact, is in violation, to halt the work in progress on their home pending a solution of the violation.
3. After being informed of a violation or the possibility of a violation, the homeowner who proceeds with his project, and the contractor, does so at the risk of an legal action by the Association against them (See Article 11 of Chapter II, entitled Bylaws, to understand any possible Remedies). The contractor performing the work will also be informed that he can held liable if he continues with the work after being informed of the dispute between the Association and the member. This is explained in the instructions issued by the Charter Township of Shelby, through its building department whenever a permit is issued. (New)
4. The Board will request from the member in violation, as to their disposition on the matter. In the event, the member indicates they will resolve the matter, to obtain the projected time frame for the solution of the matter at issue.
5. In the event the member fails to agree to a solution, or after agreeing to resolve the violation he fails to do so in his prescribed timetable, the member will be advised by a written notice that legal action to resolve the issue will proceed against that member and the contractor. The purpose of any legal action will be to halt the member's planned project and seek compensatory and punitive damages suffered by the Association in bringing suit. The damages sought to include actual expenses including any lawyer's fee, court costs, and expense of legal service and punitive damages. As per By-Laws, Article XI, Remedies, Section 3, the Association may enforce collection of these expenses by a suit at law for a money judgement or by placing a lien against the member's property.
6. The Board will follow-up on a regular basis with legal counsel, the status of the outstanding unresolved violations to existing restrictions and guidelines.
7. The Board of Directors will retain and maintain a file of all communications received or sent by itself, to the homeowner and contractor involved as well as any letters sent to or received from the legal firm representing the Bannister Lakes Homeowners Association in any legal action. Also to be retained is a copy of any notice or letter sent to the entire membership in this matter.

Philip Krason, the duly authorized secretary of the Bannister Lakes Homeowners Association, signs these, Building Restrictions, Use Restrictions and Auxiliary Construction Restrictions of the Bannister Lakes Homeowners Association for the benefit of the members.

SIGNED IN THE PRESENCE OF

BANNISTER LAKES HOMEOWNERS
ASSOCIATION

By: _____
Philip Krason
Secretary

STATE OF MICHIGAN)
) ss
COUNTY OF MACOMB)

On this _____ day of _____, 20__, before me personally appeared Philip Krason, the duly authorized secretary of the Bannister Lakes Homeowners Association, to me known to be the person described in and who executed the forgoing instrument and acknowledged to me that he executed the same as his own free act and deed.

(s) _____
(p) _____
Notary Public
Macomb County, Michigan
My commission expires: _____
Acting in Macomb County

Drafted by and after recording
Return to:
Bannister Lakes Homeowners Association
P O Box 180631
Utica, MI 48318