

**DECLARATION OF COVENANTS AND RESTRICTIONS
RELATING TO THE PLAT OF BINDER PARK HILLS**

Dated: Aug 23, 1996

Binder Park Hills, a Michigan Limited Liability Company, whose address is 1351 S. 24th St., Battle Creek, MI 49017, the owner and developer of all property contained in the plat of Binder Park Hills, Phase II as recorded in Liber 22 of Plats on page 31-34 of the Calhoun County Records hereby imposes protective covenants and restrictions upon; reserves utility and other easements over and under; and reserves other rights in the Plat, pursuant to a general plan of development and improvement of the Plat and for the common advantage of all the present and future owners of Lots contained in the Plat as follows:

ARTICLE I

Definitions and General Provisions

STATE OF MICHIGAN
CALHOUN COUNTY
RECORDED

20 SEP 96 3:17 P.M.

Section 1. Definitions: As used in this document, the following terms have the following meaning:

a. AAC means the Architectural Control Committee established pursuant to Article IV of the Restrictions.

ANNIE IV. HORTLANDER
CLERK - REGISTER OF DEEDS

b. Adjoining Binder Park Hills Plats means any and all duly recorded plats established by the Developer which are contiguous with the Plat.

c. Association means the Binder Park Hills Homeowner's Association formed pursuant to Article V.

d. Developer means Binder Park Hills, a Michigan Limited Liability Company, or any successor entity to which Binder Park Hills, a Michigan Limited Liability Company assigns its rights as Developer under these Restrictions.

e. Lot means any platted Lot in the Plat of Binder Park Hills as recorded in Liber 22 of Plats on page 31-34 of the Calhoun County Records.

f. Member means any Member of the Association whose dues or assessments are fully paid.

g. Owner means any party owning fee simple interest in any Lot, unless the Lot is subject to a valid land contract buyers interest in which case Owner means the party holding the land contract buyer's interest in the Lot.

h. Plat means the Plat of Binder Park Hills as recorded in Liber 22 of Plats on page 31-34 of the Calhoun County Records.

i. Restrictions means this Declaration of Covenants and Restriction Relating to the Plat of Binder Park Hills.

Section 2. Effect of Restrictions: These Restrictions govern the use and development of all Lots and are automatically binding upon the Developer, its successors, assigns, grantees, and every other party acquiring an interest in any Lot. By acquiring an interest in any Lot, the Party so acquiring such interest agrees to be bound by the terms, provisions, and limitations of these Restrictions as they exist on the date such interest is acquired and as they may properly amended from time to time thereafter. These Restrictions automatically run with the land.

Section 3. Term of Restrictions: These Restrictions will remain in full force and effect until

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December, 31,2018 and will continue thereafter until rescinded by a vote of those Owners with an interest in not less than 2/3rds of the Lots.

ARTICLE II

Restrictions on Use

Section 1. Residential Use Only: All Lots will be used only for single family residential purposes. Not more than one dwelling may be built on any one Lot and no dwelling may be built on the fractional portion of any Lot as originally platted, provided that a dwelling may be built on a Lot and a portion of another Lot.

Section 2. Recreational Vehicles: Recreational vehicles and equipment including travel trailers, pickup covers, motorized homes, motorcycles, campers, boats and boat trailers, snowmobiles, horse trailers, rafts, dune buggies, or any automotive units intended for recreational purposes may be parked or stored only within an enclosed garage.

Section 3. Animals: No animals, livestock, or poultry of any kind shall be raised or kept on any Lot, with the exception of dogs, cats, and other household pets. These pets may be kept provided they are kept confined in accordance with Township ordinances and are prevented from becoming a nuisance to other Owners.

Section 4. Signs: No sign of any kind may be displayed within public view with the exception of one sign not more than three feet square advertising the property for sale or rent. The Developer reserves the right to place signs not exceeding ten feet by eight feet to promote the sale of Lots. The developer also reserves the right to build a permanent entrance sign of appropriate wood and masonry materials to beautify and label the Plat entrance.

Section 5. Occupancy: No trailer, basement, tent, garage, or outbuilding may be used as a residence temporarily or permanently. No dwelling may be occupied until fully completed and the driveway from the hard-surfaced street to the garage is paved with asphalt or concrete.

Section 6. Care and maintenance of Lots: Each owner must grade, seed, and maintain the planting strip between the Lot line and the street or curb line. No rubbish, trash, inoperative vehicles, lawn cuttings or junk may be allowed to accumulate or remain on any Lots. Trash containers must be kept within a fully enclosed structure.

Section 7. Permits for the installation of wells and sewage disposal systems shall be obtained from the Calhoun County Health Dept. Prior to any construction on the above named plat.

Section 8. All water wells shall be drilled to a minimum depth of 100 feet.

Section 9. Miscellaneous Provisions: No hunting or taking of wildlife or discharge of firearms is permitted within the Plat.

ARTICLE III Development Restrictions

Section 1. Construction of Improvements: No dwelling, garage, building, fence, driveway, or any type of improvement, facility, or construction may be commenced, constructed, completed, placed, altered or maintained on any Lot until the proposed building plans, exterior color scheme and materials, and site plan have been approved in writing by the ACC. One copy of all building plans, exterior materials specifications, and site plan shall be furnished to the ACC and approved in writing before the commencement of construction of any structure, fence, driveway, or other improvement of any kind.

Section 2. Required Provisions: Each improved Lot must comply with the following minimum requirements:

- a. Construction on Lots 1 - 20 must have a minimum of 1650 square feet of finished living area above the basement level, determined by exterior dimensions and exclusive of garages, porches, and unheated areas. Minimum square footage requirements for Lots 21-30 is 1750, Lots 31-45 is 1900 and Lots 46-63 is 1750.
- b. Each house must have an attached garage of not less than two, nor more than three standard size car stalls. Provided, however, one garage stall with an extra high door to accommodate the parking of a travel trailer, boat and trailer, or motor home is permitted.
- c. All construction shall be fully protected by erosion control measures in accordance with the provisions of the State Erosion and Sediment Control Act 347 of the Public Acts of 1972as amended.
- d. All dwellings shall be fully completed, including finished grading and seeding of the Lot, within one year from commencement of construction.

Section 3. Set Back Requirements: Each dwelling must comply with the set-back requirements set forth in this Section. Eaves and steps will not be considered part of the building for the purpose of these requirements.

- a. No dwelling may be constructed less than 50 feet, nor more than 60 feet, from the front lot line of the street on which the building fronts.
- b. No dwelling may be constructed within 30 feet of any side Lot line, unless one and a fraction Lots are used as a building site, in which case, the dwelling may not be within 30 feet of the newly created side lot line.
- c. Dwellings on corner Lots must maintain a minimum of 50 feet from the front Lot line of the street on which the building fronts, and a minimum of 30 feet from the side Lot line that faces any side street.
- d. If a dwelling is to be placed diagonally on a Lot, the ACC will determine which street Lot line will be designated the front Lot line and the other as the side Lot line.

Section 4. Prohibited Provisions: Each of the following is prohibited:

- a. Dwellings of an A-frame, bi-level, raised ranch, and Chalet styles or design.
- b. Flat roofs, mansard roofs, and gambrel roof styles.
- c. Construction, placement, or erection of any fence in front of the rear line of the dwelling.
- d. Temporary dwellings of any nature.

- e. Buildings or structures of any kind other than a single family residence with attached garage, without the ACC's prior approval.

Section 5. Special provisions for Lots 16 - 20: Within the 50 foot easement area the following restrictions will effect Lots 16 through 20:

- a. No above or below ground structures shall be constructed or installed such as manholes, septic fields, swimming pools, garages, buildings, foundations, irrigation systems, trees, etc.
- b. A minimum clearance of 18 inches between the pipeline and any proposed utility crossings. The utility should be beneath the pipeline unless otherwise agreed to.
- c. No existing ground cover shall be added to or removed without prior written approval from Wolverine for any construction purposes. A Wolverine inspector will be required to be at the site during any excavation.
- d. No storm water retention facility will be constructed.
- e. At proposed road crossings and driveways a minimum of 3 feet of ground cover is required. Wolverine Pipe Line Company also reserves the right to remove any asphalt or concrete paving material for maintenance purposes, if required, at no cost to the owner. Replacement of such material will be at the expense of the owner and at no cost to Wolverine Pipe Line Company.

ARTICLE IV.

Architectural Control Committee

Section 1. Formation of Committee: There is hereby established an Architectural Control Committee (ACC).

Section 2. Power and Authority of ACC: The ACC has the following powers and authority:

- a. To approve or disapprove the design, construction material, appearance, location, color, orientation, and any other aspect of any improvement proposed for construction or placement upon any Lot or any portion of any Lot, including any addition or change to any previously completed or approved improvement. The ACC has absolute authority to accept or reject any site plan including the placement and orientation of all structures on the Lot.
- b. Until an Association is formed pursuant to the provisions of Article V, to enforce these Restrictions, including bringing any legal action deemed necessary or convenient to enjoin any existing or threatened violation.
- c. Until an Association is formed pursuant to the provisions of Article V, to amend any provision of these Restrictions or waive the application of any provision of these Restrictions as applied to any specific Lot.
- d. After the formation of the Association, in addition to the power set forth in subparagraph IV.2.a., the ACC will have such powers as the Association may from time to time assign to the ACC. Such assigned powers may include, but are not limited to, the power to enforce these Restrictions, to amend these Restrictions, or to waive the application of any provision of these Restrictions as applied to any specific Lot.
- e. To establish such additional requirements, standards, limitations, and restrictions upon the design, appearance construction, and color of improvements which are in addition to, but not

in direct conflict with, the provisions of these Restrictions. The ACC has the absolute authority to reject any proposed building or site plan at its sole discretion based upon these Restrictions or such additional requirements, standards, limitations, and restrictions the ACC establishes pursuant to the preceding sentence.

Section 3. Procedure for Obtaining ACC Approval: Before beginning construction of any improvement of any kind, including, but not limited to, any dwelling, garage, driveway, or fencing, the Lot Owner must obtain written approval from the ACC in regard to the design, location, materials, and proposed color scheme for such improvement. In requesting such approval, the Owner or Owner's contractor or representative must submit to the ACC the proposed building plans, exterior color scheme and materials, and site plan for the proposed improvement. In addition, the ACC may require the submission of photographs, color renderings, or other materials if, in the ACC's sole discretion, such items would assist the ACC in making its decision. If the ACC does not respond in writing within 15 days after receiving all items required or requested by the ACC to support such request, the request will be deemed to be approved.

Section 4. Initial Members of ACC: The ACC will consist of Linda Thompson and Randy Loper until such time as the Developer has sold all Lots in the Plat. Either Linda Thompson or Randy Loper, or both, have the right to resign as a member of the ACC and to appoint another party of the resigning member's choice as a member of the ACC. Until the Developer has sold all the Lots in the Plat, the Association has no power or authority under Article IV to elect members of the ACC.

Section 5. Election of Members of ACC: After the Developer's sale of all the Lots in the Plat, the ACC will consist of 3 members elected by the Association. Until the Association's election of 3 members to the ACC, Section IV.4 of this Article will govern the membership of the ACC.

ARTICLE V.

Binder Park Hills Homeowners Association

Section 1. Formation of a Homeowners Association: Within a reasonable time after the Developer sells or otherwise transfers 50% of the Lots in the Plat to third parties, or such earlier date as the developer elects, a homeowners association will be formed as a Michigan non-profit corporation to be known as Binder Park Hills Homeowners Association.

Section 2. Purpose of Association: The purpose of the Association will be to maintain and improve any common areas of the Plat or any Adjoining Binder Park Hills Plats, enforce these Restrictions, maintain and improve the recreation, health, safety, and welfare of the residents of the Plat and the residents of any other adjoining Binder Park Hills Plats, collect dues or assessments from Members of the Association, and expend any dues or assessments collected and other funds in furtherance of its purposes.

Section 3. Powers of Association: The Association will have such authority and powers as is necessary or convenient to the furtherance of any of its purposes, including, but not limited to, the power to merge the Association into one or more other Associations formed in connection with

any Adjoining Binder Park Hills Plats or to admit as members to the Association owners of Lots in Adjoining Binder Park Hills Plats. In addition, the Association has the following additional powers and authority:

- a. Subject to the provisions of Section IV.4, upon a majority vote of the Members, to elect individuals to the ACC.
- b. Upon a majority vote of the Members, to amend these Restrictions or waive the applicability of any provision of these Restrictions as to any Lot or Lots.
- c. To take any action, including legal action if necessary, to collect any unpaid membership dues or assessments and to suspend the voting rights of any member who has not paid any membership dues or assessments in full when due.

Section 4. Membership: Each person, firm, or other entity becoming an Owner of one or more Lots must become a dues paying member of the Association upon the formation of the Association. A husband and wife or any other parties owning any Lot or Lots in the Plat jointly or in common with another party will hold membership in the Association jointly as husband and wife or as joint or common Members.

Section 5. Voting: Each member owning a Lot on which a single family residence constructed pursuant to these Restrictions and for which Membership dues or assessments are fully paid is entitled to two votes for each Lot on which such a residence is located at all meetings of the Association's Members. Each Member owning a Lot on which there is not a completed single family residence constructed pursuant to these Restrictions and for which membership dues are fully paid is entitled to one vote for each such undeveloped Lot at all meetings of the Association Members. Fractional votes are not permitted. In particular, if the building site on which a single family residence is located consists of a Lot and a fractional Lot, the Owner of such home and building site is entitled to two votes. The Owner of the adjoining partial Lot is entitled to two votes or one vote, depending on whether a house is located on the adjoining Lot. Provided, however, if there is no single family residence on the adjoining Lot and the owner of the adjoining Lot does not own sufficient contiguous Lots to permit construction of a single family residence on such adjacent Lots, the Owner of the adjacent Lot is not entitled to any vote as a Member of the Association.

Section 6. Annual Membership Dues or Assessments: Upon acceptance of a conveyance of any Lot, the Lot Owner is deemed to covenant and agree to become a Member of the Association. Each member of the Association will pay yearly dues or assessments in such amount as set by the Board of Directors from time to time. Such dues will become payable on January first of each year and are payable without penalty anytime before April first of that year. After April first, a late charge will be assessed in an amount equal to 25% of the annual dues for the year in question. If any Member fails to pay the annual dues and any applicable late charges by May first of the calendar year in which they first become due and payable, the rights, privileges, and membership of such Member automatically terminate. Provided, however, such Member may reinstate the membership at any time by paying the amount equal to twice the accrued unpaid dues. The Association may expend dues or assessments in any manner the Association deems in furtherance of its purpose.

Amendment of Restrictions

These Restrictions may be amended by the ACC pursuant to the provisions of subsection IV.2.c and pursuant to the provisions of subsection V.3.b. Any amendment of these Restrictions will be effective from and after the proper adoption of such amendment.

Miscellaneous


Section 1. Enforcement of Restrictions: Enforcement of these Restrictions may be by proceedings against any person or persons violating or attempting to violate any of the Restrictions. Proceedings may include either restraint or certain violation and/or recovery of money damages.

Section 2. Severability of Restrictions: The invalidity or enforceability of any provision of these Restrictions will not operate to invalidate any other provision of these Restrictions.

Executed in our presence:

~~Gretchen R. Thayer~~
Gretchen R. Thayer
~~Donald J. Davis~~
Donald J. Davis

BINDER PARK HILLS


Linda Thompson
Vice President, Binder Park Hills Limited
Liability Company

STATE OF MICHIGAN)
)SS:
county of Calhoun)

The foregoing instrument was acknowledged before me, a Notary Public, on this 20th day of August, 1996, by Linda Thompson, Vice President of Binder Park Hills, Limited Liability Company.

Gretchen R. Thayer
Gretchen R. Thayer
Notary Public, Calhoun County, Mich.
My commission expires: October 31, 1998

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Approved by the Calhoun County Health Dept. on August 22, 19 76

Michael F. Schubert
MICHAEL F. SCHUBERT