

PROTECTIVE AND RESTRICTIVE COVENANTS
LAKE TEMPLENE PROJECT
“HICKORY HILLS” NO. 3 SUBDIVISION

The St. Joseph County Lake and Land Development Corporation as developer of Lake Templene and this subdivision, hereby adopts and establishes certain restrictive covenants, conditions, easements and servitudes that shall run with all parts of this subdivision and shall be binding upon, and inure to the benefits of, The Developer, and everyone of the Developer’s successors entitled to any real estate in this subdivision.

I. USE

A. Residential Character

All numbered lots in this subdivision shall be used exclusively for residential purposes. No structure shall be erected, altered, placed or permitted to remain on any of the said lots except a single-family dwelling house and such out buildings as are usually accessory to a single-family dwelling house.

B. Occupancy

No dwelling on any of said lots shall be occupied for residential purposes until it shall have been “substantially completed”. Determination of this question of “substantially completed” shall be decided by the Developer’s Building Control Committee, that is hereafter described.

C. Accessory Buildings

No accessory out-buildings shall be erected on any of said lots prior to the erection thereon of a single-family dwelling house, and neither any such accessory out-building nor any temporary structure shall ever be used as a dwelling house on of any said lots.

D. Garages

All garages must conform in appearance to the residence structure on said lots.

E. Trucks and Trailers

No trailer or truck in excess of three-quarter ton or temporary structure shall be occupied or stored within the residential subdivisions except during time of active home construction and only then with written permission from the Developer’s Building Control Committee hereafter described.

F. Pets

No animal, livestock or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats or other household pets which may be kept provided they are not kept, bred, or maintained for any commercial purpose. No pet shall be permitted to become a nuisance or permitted to run unleashed on improved lots.

G. Restoration of Damage

Any dwelling or accessory building on any numbered lot in this subdivision which may in whole or in part be destroyed by fire, windstorm, or any other reason, must be rebuilt or all debris removed and the lot restored to a slightly condition with reasonable promptness.

H. Unoccupied Lots

Owners of unoccupied lots shall at all times keep and maintain their property in this subdivision in an orderly manner causing weeds and other growth to be seasonably cut, and prevent accumulation of rubbish and debris on the premises.

In the event an owner of any numbered residential lot in the Project shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Building Control Committee or the directors of the Property Owners' Association, that is hereafter described, said Committee or Association shall have the right, through its agents and employees, to enter upon said lot and to repair, maintain, and restore the lot and the exterior of the buildings and any other improvements erected thereon. Such right shall not be exercised unless two-thirds of said Committee or Board of Directors of the Owners' Association shall have voted in favor of its being exercised. The cost of such exterior maintenance shall be added to and become part of the annual charge to which said lot is subject.

I. Mobile Homes

No existing residential building of any kind can be moved onto any lot on the plat. No house trailer will be permitted to be parked on any numbered lot within the subdivision, unless approved by the Building Control Committee as a temporary expediency prior to removal to a designated area.

J. Commercial use

No residential lot shall be used for commercial or manufacturing purposes. For better efficiency, consideration by the Developer's Building Control Committee will be given to builders, engineers, designers, architects, and perhaps others who desire to have their offices in their homes for a certain period of time during the stages of the development of the Lake Templene Project.

K. Signs

No "For Sale" sign or advertising devise of any kind shall be erected on any numbered lot except on a new house previously unoccupied which is offered by the developer or builder.

L. Docks and Boat Shelters

No float, pier, or boat shelter may be constructed and placed entirely or partly within the lake without approval of the Developer's Building Control Committee. Such approval shall constitute a mere revocable license from the Developer, or its

successor entitled to said lake for the construction, placement, and maintenance of the proposed structure.

M. Water Usage and Control

Lake Templene is designated as a private lake and as such, the right to usage and control remain with the Developer or its authorized agent.

1. Usage and enjoyment of the water is to be controlled by the Building Control Committee, including but not in limitation thereof pumping water from the lake to lawn sprinkler system.
2. There shall be no water skiing or power boat racing before nine a.m. or after official sunset, except for special events authorized by the Developer or the Lake Property Association hereafter described. It will be the boat operator's responsibility to be familiar with this daily change of time. Michigan State laws relating to operation of vessels and motor boats will be enforced in order to police boat ownership, all boats must have a Lake Templene decal, which owners of property in the Lake Templene Project may obtain from the St. Joseph County Lake and Land Development Corporation office. Guest boat permits will be limited by the Developer or its authorized agent. Said permits shall be kept in the possession of the guest boater and available for check by authorized agents of the Developer or Lake Property Association. All guest boats shall be embarked or disembarked at specified access areas.
3. In order to control the use of Lake Templene, and thereby benefit all the residents of the land around the lake, the waters of Lake Templene and the lands normally flooded and covered by the lake at its highest level (828.5 feet above sea level) shall be owned by the St. Joseph County Lake and Land Development Corporation, its successors and assigns. Lots which abut or border on the waters of the lake shall not include any riparian and littoral rights in and to said waters, or to the lands below said waters.
4. Lake owners are permitted to construct waterways into their lots for storage of boats, providing they follow a plan of construction approved by the Building Control Committee. These plans of construction must be approved in writing prior to construction.

N. Outdoor Storage

Any tank for the storage of fuel placed or maintained on any lot outside of any building in these subdivisions shall be located below the surface of the ground; or, if placed above ground, such tank or refuse container must be screened by shrubbery or fencing and such screening to be subject to the approval of the Building Control Committee.

O. Nuisance Clause

No noxious or offensive activities shall be carried on on any lot in the subdivision, nor shall anything be done on any of said lots that shall be or become an unreasonable annoyance or nuisance to any owner of another lot in the subdivision.

P. Vehicle Parking

No vehicle shall be parked on any street in the subdivision. No truck in excess of $\frac{3}{4}$ ton shall be parked for overnight or longer storage, on any numbered lot in the subdivision in such a manner as to be visible to the occupants of other lots in the Project or the users of any street or lake, within the Project, nor shall any stripped-down, partially wrecked, or junked motor vehicle or any sizeable part thereof, be so parked.

Q. Refuse Disposal

No owner of any numbered lot in the subdivision shall burn or permit the burning out-of-doors of garbage, trash and other like household refuse, nor shall such owner accumulate or permit the accumulation out-of-doors of such refuse on his lot except as permitted in Paragraph I, sub-paragraph N. In order to enhance the appearance and orderliness of the subdivision, the Developer hereby reserves for itself, its successors, and assigns, the exclusive right to operate, or from time to time, to grant an exclusive license to a third party to operate, a commercial scavenging service within the subdivision for the purpose of removing garbage, trash and other like household refuse. Such refuse collection and removal service shall be provided no less often than once each week on a day or days designated by the Developer, or its successors, and assigns. The charge to be made for such refuse collection and removal service shall be at a reasonable rate commensurate with the rates charged by commercial scavengers, and subject to change from time to time. Initially the charge for such service shall be two dollars (\$2.00) per month.

R. Outdoor Domestic

All outdoor clothes poles, clothes lines and similar equipment shall be placed or screened by shrubbery as not to be visible from any street or lake within the Project.

S. Model Homes

No owner of any numbered lot in the subdivision shall build or permit the building thereon of any dwelling house that is to be used as a model house or exhibit unless prior written permission to do so shall have been obtained from the Developer or from the Property Owners' Association that is hereinafter described, in event that the power herein reserved shall, at the election of the Developer have been assigned to such Property Owners' Association.

T. Water Purity

Use of fertilizers and detergents high on phosphate content shall be considered as possible lake pollution factors and their use shall be limited by the Developer or its successors and assigns.

U. Shoreline and Water Level Control

For the good of the waters of Lake Templene and for the control of weed growth and for control of fish population, the Developer or the Lake Owners' Association shall be granted permission to lower the level of the lake for periods of time when deemed necessary. This action shall require the affirmative vote of two-thirds the Board of Directors of the St. Joseph County Lake and Land Development Corporation or two-thirds the Board of Directors of the Lake Owners' Association if such power herein reserved shall, at the election of the Developer, have been assigned. The Developer reserves to itself and its successors and assigns, such an easement upon, across, and through each said lots contiguous to Lake Templene as is necessary in connection with the operating of said lake.

The Developer, its successors and assigns, shall have the right at any time to dredge or otherwise remove any accretion or deposit from any of said lots in order to maintain the established shoreline of the lake, and not inland beyond the location of said shoreline as it would exist as of the date hereof if the water elevation in said lake were at an elevation one vertical foot above the normal pool water elevation, indicated on the subdivision plat and title shall pass with such dredging or other removal as by erosion.

V. Liability to Natural Causes

It is declared that neither the Developer nor any successor or assign of the Developer shall be liable for damages caused by ice, erosion washing or other actions of water.

W. Streets and Recreational Amenities

Streets depicted in the subdivision plats of the Lake Templene Project except for county roads already established or proposed shall be considered private streets, and every park, recreational facility, and other amenities within the Project is a private park, facility, or amenity, and neither the Developer's execution or recording of the plat of the subdivision nor the Developer's doing any other act or thing in respect to said plat of the subdivision is, or is intended to be, or shall be construed to be as a dedication to the public, except as noted above, of any of said streets, parks, recreational facilities, and amenities. An easement for the use and enjoyment of each of said streets and areas designated on the subdivision plats, as parks, is reserved to the Developer and its successors and assigns; to the persons who are, from time to time, members or associate members of the Property Owners' Association that is hereinafter described in more detail in Paragraph V, sub-paragraph A of these Restrictions; to the members and owner of Lake Templene Golf and Country Club, (or similar entity), and its successors and assigns; to the residents, tenants and occupants of the multi-family residential

buildings, guest house facilities and all other kinds of residential structures that may be erected within the boundaries of the Project; and to invitees of all the aforementioned persons. The ownership of the other recreational facilities within the Project including the lake, dams, marinas, beaches, lake access tracts, golf course, tennis courts, club houses, and adjacent club house grounds, shall be in the Developer or its successors and assigns and the use and enjoyment thereof shall be on such terms and conditions as the Developer, its successors and assigns shall from time to time license. Certain future specified recreational amenities shall eventually be conveyed by the Developer to Property Owners' Association. Until such conveyance is consummated, the Developer shall assume responsibility of maintenance and improvement of the Lake Templene area.

X. Maintenance Fund

In order to maintain and improve the Lake Templene area, commencing May 1, 1971, and on May 1st of each year thereafter, the purchaser of each lot (or title holder, if title has been conveyed) shall pay twenty-four dollars (\$24.00) to Lake Templene Maintenance Company, its successors or assigns. Funds so collected shall be used at the discretion of the Lake Templene Maintenance Company to maintain all dams, parks, bridle paths, beaches, regulate the lake level, pay salaries, and administrative costs and general beautification and betterment of Lake Templene. Annual payments shall be a lien on each lot; and, if not paid by July 15th of each year, may be noted by affidavit recorded with the Register of Deeds.

II. TYPE, SIZE, CONSTRUCTION AND PLACEMENT

Any dwelling erected, placed, or altered on any lot in the subdivision must be approved in writing by the Building Control Committee prior to starting of construction. Such approval will be made upon submission of satisfactory plans, specifications, and a grid map showing the location of structure on lot. Such structure must conform to the following minimum standards.

A. Ground Floor Requirements.

1. Any residence erected on any lot contiguous to the lake in the subdivision shall have a ground floor area of not less than 1000 square feet, (the ground floor area does not include carport, garage, open porches, screened porches or basements).
2. Any residence erected on any lot not contiguous to the lake in the subdivision shall have a ground floor area of not less than 960 square feet and if erection of one and a half or two story house, the ground floor need not exceed 720 square feet if the total floor area of the house is not less than 1100 square feet.

B. Setback Requirements

1. Any structure erected must be setback not less 40 feet from the front lot line and not less than 25 feet from any side street lot line.
2. Sideline setbacks shall be not less than 10 percent of the width of the lot at building line.
3. Rear line setbacks on any lot contiguous to the lake shall be 40 feet or not less than 25 percent of the depth of the lot. (Whichever is the greater.) Setbacks on any other lot shall be 20 feet or 25 percent of the depth of the lot. (Whichever is the greater.)

However, any numbered lot whose rear lot is contiguous with the lake shoreline there may be constructed and maintained, at or adjacent to the shoreline, any boat shelter, pier, or similar structure in respect to the size, design, construction, or placement of which the Building Control Committee shall have issued a license or permit.

The term “rear lot line” defines the boundary line of the lot that is farthest from and substantially parallel to the line of the street on which the lot abuts, except that on corner lots it may be determined from either street line.

Setbacks involving concave, convex, meandering lines, or setbacks on multiple contiguous lots shall be determined by the Building Control Committee.

C. Fences and Hedges

In general, no part of any fence or wall shall be constructed or placed within the “front yard” of any numbered lot in the subdivision, that is to say, within that part of the lot that lies between the line of the street on which the lot abuts and the required setback from the front line of the lot. No fence or wall shall be constructed or placed within that part of any lot that is contiguous to the lake that lies within 25 feet of the shoreline of the lake and no part of any fence or wall constructed or placed in the “rear yard” of any lot that is contiguous to the lake shall exceed four feet in height. Any fence that is permitted within the subdivision and is not subject to the height limitation set out in the immediately preceding sentence may have a height not in excess of six feet; provided, however, that every permitted fence in the subdivision that exceeds four feet in height shall be of chain link or open construction. Hedges shall not exceed five feet in height and shall not obstruct lake view of abutting lot owners. Hedge placement in the rear lot shall be governed by the same rules as for fences.

D. Time of Completion

All structures shall be completed on the exterior within six (6) months from the start of construction.

E. Landscaping

All major landscaping of property must be completed in one year from the date building is started.

F. Plumbing

All sanitary plumbing shall conform with the minimum requirements of the Health Department of the St. Joseph County and the State of Michigan. It shall be subject to the control of the Building Control Committee. The location and size of dry wells and septic tanks, as well as drainage fields, will be determined by the Building Control Committee.

G. Reasonable Change

Any reasonable change, modification, or addition to the within restrictions shall be considered by the Building Control Committee, and if so approved, they will then be submitted in writing to the abutting lot owners, and if so consented to in writing, shall be recorded, and when recorded shall be binding as the original restrictions. "Except that restriction IV (B) pertaining to flood plains shall run in perpetuity and shall not be amended."

H. Storm Drainage

Neither the discharge from any sump or any storm water coming on any numbered lot in the Project shall be allowed to flow into any sanitary sewage facility within the Project.

I. Storm Drainage Ditches and Swales

It shall be the duty of every owner of a lot in the Project on which any part of such ditch or swale is situated to keep such part of such ditch or swale continuously unobstructed and in good repair.

III. EASEMENTS

The Developer reserves and grants certain easement rights in the real estate that constitutes the Project, which easement rights are declared to be of a commercial character. No permanent building shall be placed on any said easements, but the same may be used for gardens, shrubs, landscaping, or other purposes, provided that such use or uses do not interfere with the use of said easements for their intended purposes. No easement hereby or subsequently reserved or granted by the Developer shall prohibit any other utility from crossing any such easement with its facilities for the purpose of extending, repairing, or maintaining utility service to any property or properties.

A. Utility and Drainage Easements

1. An easement for utility services and for drainage shall encumber the six foot wide strip of land that lies contiguous to each sideline of every numbered lot in the subdivision.
2. An easement for similar purposes shall encumber the ten foot wide strip of land that lies contiguous to the rear line of every numbered lot in the subdivision.
3. An easement for similar purposes shall encumber the ten foot wide strip of land that lies contiguous to the front line of every numbered lot in the subdivision.

B. Flowage Easement

Every numbered lot in the subdivision that lies contiguous to the lake shall be subject to a flowage easement to an elevation on the lot equal to the highwater elevation in such lake as stated on the recorded plat, (828.5 feet above sea level).

IV. REGULATIONS

A. Health Clause

The owners of any residential lots in the subdivision hereby agree that when a special assessment district, either private or governmental is created to establish a sewer or water system or both that they as owners hereby agree to the establishment of such a special assessment district and further agree that they will pay all necessary assessments and charges in connection thereto.

The owners also agree that they will utilize on their premises the said water or sewer systems as the case may be and be subject to all rules and regulations in connection therewith.

Those owners who have septic systems and wells in use prior to the time of establishment of the special assessment district may continue use until disapproved by the State Health Department or maximum of ten years thereafter.

B. Buildings within Flood Plains

Any building used or capable of being used for residential purposes and occupancy within the flood plain shall:

1. Have lower floors, excluding basements, a minimum of one foot higher than the elevation of the contour defining the flood plain limits.
2. Have openings into the basement not lower than the elevation of the contour defining the flood plain limits.

3. Have basement walls and floors below the elevation of the contour defining the flood plain limits, watertight and reinforced to withstand hydrostatic pressures from a water level equal to the elevation of the contour defining the flood plain limits.
4. Be equipped with a positive means of preventing sewer backup from sewer lines and drains, which serve the building.
5. Lake Templene flood plain limits are defined by elevation 830.0 (U.S.G.S. datum).

V. SPECIAL COMMITTEES AND ASSOCIATIONS

A. Building Control Committee

This Committee shall consist of three (3) members appointed by the St. Joseph County Lake and Land Development Corporation. This Committee may designate one of its members to act in its behalf. In event of the resignation or death of any member, the remaining members shall approve plans and specifications for all structures erected in these subdivisions. The Committee may reject any plan because of too great a similarity to nearby existing structures, or because, in the opinion of the Committee the building is improperly placed on the lot.

The powers herein reserved to the Building Control Committee may subsequently be assigned, at the election of the Developer, to the Property Owners' Association that is hereinafter described. Ownership of real estate in the Project shall not be a condition of membership on the Building Control Committee.

Whenever a vacancy shall occur in the membership of the Building Control Committee, the Developer (or said Property Owners' Association, if the power of said Committee shall then have been assigned to said Association) shall select a person to fill the vacancy.

Neither the Building Control Committee nor any members thereof, shall be entitled to any compensation from any owner of a numbered lot in the Project on account of any service performed in the examination of plans or specifications.

B. Lake Templene Property Owners' Association, Inc.

There has been or will be created, under the laws of the State of Michigan, a not for profit corporation to be known as the Lake Templene Property Owners' Association, Inc., which is herein referred to as the "Property Owners' Association". Every person who acquires a title (legal or equitable) to any numbered lot in the Project shall be a member of the Property Owners' Association. The foregoing provision requiring the owners of numbered residential lots in the Project be members of the Property Owners' Association is not intended to apply to those persons who have an interest in such real estate

merely as security for the performance of an obligation to pay money, e.g. mortgagees and land contract, vendors. However, if such a person should realize upon his security and become the real owner of a numbered lot within the Project, he will then be subject to all the requirements and limitations imposed in these Restrictions on owners of numbered lots within the Project and on members of the Property Owners' Association.

1. Purpose of the Property Owners' Association

- (a) The purpose of the Property Owners' Association is that of providing a means whereby the streets and those areas within the Project designated as parks or pedestrian easements on the plat thereof, and such other recreational facilities within the Project as may be conveyed to the Association may be operated, maintained, repaired, and replaced.
- (b) The Association is to provide a means for promulgation and enforcement of all regulations necessary to the governing of the use and enjoyment of such streets, parks, pedestrian easements, and such other recreational facilities within the Project as may be conveyed to the Association.

2. Power of the Property Owners' Association to levy and Collect Charges and Impose Liens

- (a) The Association shall have the power to levy against every member of the Association (except against those members mentioned in paragraph VI titled Special Provisions), a uniform annual charge of not less than twenty-four (\$24.00) dollars per numbered single family residential lot within the Project or such greater amount per said lot as may be determined by the Board of Directors of the Association after consideration of current maintenance needs and future needs of the Association, for the purpose set forth in its Articles of Corporation.
- (b) Every such charge so made shall be paid by the member of the Property Owners' Association on or before the first day of May of each year, for the ensuing year. The Board of Directors of the Association shall fix the amount of the annual charge per lot by the first day of April of each year, and written notice of the charge so fixed shall be sent to each member.
- (c) Each such charge shall be paid by the member of the Association and such charge, if not paid by July 15th of each year, shall be a lien on each lot and may be denoted by affidavit recorded with the Register of Deeds. Any charge not paid by July 15th shall bear interest from the date of delinquency at the rate of six

percent per annum and the Association may publish the name of the delinquent member. Every person who shall become the owner of the title (legal or equitable) to a numbered lot in the Project by any means, is hereby notified that, by the act of acquiring such title, such person will be conclusively held to have covenanted to pay the Property Owners' Association all charges that the Association shall make pursuant to this subparagraph (V-B-2) of the Restrictions.

3. The lien of the charges provided for herein shall be subordinate to the lien of any mortgage or mortgages. Sale or transfer of any lot shall not affect such lien for charges.
4. The Board of Directors of the Property Owners' Association shall have the right to suspend the voting rights (if any) and the right to use the parks and other recreational facilities of the Association of any member or associate member for any period during which such assessment against this member or associate member remains delinquent and unpaid.

VI. SPECIAL PROVISIONS

No properties owned by the Developer are subject to annual assessments by the Lake Property Owners' Association; nor are any dams, spillways, parks, country club, marinas, or any other recreational facility held by the Developer subject to such assessment.

Original land owners who have been granted by the Developer lots abutting the lake and whose lands were obtained through the purchase or granting of flooding rights shall not be assessed by the Developer or Lake Property Owners' Association as long as there is no title transfer or sale of such property out of the hands of said original land owners and his children. (The term original land owners is meant to designate the owner of properties who sold property or granted flooding rights to the Developer.) In addition, original land owners with buildings within the Project may keep and maintain them even though they do not conform to the proposed building code. However, all future construction within the Project must conform with the restrictive covenants. All original land owners and his children, who have been granted a lot contiguous to the lake by the Developer shall have all the privileges of ownership of any numbered lot within the Project, and hold non-revocable rights of membership in the Lake Property Association, provided that he agrees to abide by the restrictive covenants governing the Lake Templene Project.

VII. RIGHTS OF FIRST REFUSAL

The St. Joseph County Lake and Land Development Corporation shall have the option to repurchase any property offered for sale in the subdivision. Any owner contemplating a sale of property in this subdivision shall present to the above named Corporation a bonafide purchase agreement executed by his prospective purchaser. The St. Joseph County Lake and Land Development Corporation shall have the option for fifteen (15) days to purchase subject property for an equivalent price, unless sooner waived.

VIII. TITLES

The underlined titles preceding the various paragraphs and sub-paragraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IX. DURATION OF RESTRICTIONS

The foregoing Covenants and Restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period of ten (10) years, and shall be automatically extended for successive periods of ten (10) years unless prior to expiration of any such ten (10) year period, and instruments signed by the owners of record of a majority of lots in the Project has been recorded changing or modifying said covenants in whole or in part “except that restriction IV (B) pertaining to flood plains shall run in perpetuity and shall not be amended.”

X. SEVERABILITY

Invalidation of any one of these covenants by judgment or degree shall in no way affect any of the other provisions which shall remain in full force and effect.

XI. REMEDIES

If any violation of any of the Restrictions shall occur or be threatened, the party to whose benefit the particular Restriction inures may proceed at law to recover damages for, or in equity to prevent the occurrence or continuation of the violation. The remedies hereby specified are cumulative, and this specification of them shall not be taken to preclude an aggrieved party’s resort to any other remedy at law, in equity or under any statutes. No delay or failure on the part of an aggrieved party to invoke an available remedy in respect of a violation of any of the Restrictions shall be held to be a waiver by that party of (or an estoppel of

that party to assert) any right available to him upon the recurrence or continuation of said violation or the occurrence of a different violation.

ADDENDUM:

Contingent to final plat approval, the Developer agrees not to permit the building of residential structures in this Subdivision until the lake level has been legally established for Lake Templene at a level not to exceed 828.5 ft. above sea level.

Authorized by St. Joseph County Lake and Land Development Corporation.