

LIBER 00658 pg 056 - original Bylaws
LIBER 09059 pg 463 - 1st Amendment
LIBER 22154 pg 270 2nd Amendment

DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR PINE POINTE SUBDIVISION

This Declaration is executed on July 30, 1998, by ELRO CORPORATION, a Michigan corporation, whose address is 201 W. Big Beaver Road, Suite 720, Troy, Michigan 48084 ("Declarant").

RECITALS:

A. Declarant is fee simple owner of a certain parcel of land located in the Township of Macomb, Macomb County, Michigan, and is more particularly described on Exhibit "A" attached hereto and made a part hereof (the "Pine Pointe Subdivision"), which Declarant intends to establish as a single family residential subdivision.

B. The Pine Pointe Subdivision is intended by Declarant to be developed as a single family subdivision with portions intended by Declarant to be dedicated to common use for the benefit of all the residential owners in the Pine Pointe Subdivision.

C. The Common Areas, as hereinafter defined, will consist of the landscape easement areas located adjacent to 25 Mile Road for the purpose of landscape maintenance.

NOW, THEREFORE, Declarant hereby declares the Pine Pointe Subdivision shall be held, sold, conveyed, mortgaged and interests herein transferred subject to the following easements, restrictions, covenants and conditions, which are for the purposes set forth above and for the purposes of protecting the value and desirability of the Pine Pointe Subdivision and which shall run with the Pine Pointe Subdivision and be binding on all persons having any right, title or interest in the Pine Pointe Subdivision or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. **Assessment Unit.** "Assessment Unit" shall mean any single family residential subdivision lot, developed within the Pine Pointe Subdivision.

Section 2. **Common Areas.** "Common Areas" shall mean all the real property now or hereafter dedicated and/or declared by Declarant for the common use and enjoyment of all of the owners of property in the Pine Pointe Subdivision, including certain easements for maintenance of landscaped areas. No area shown or indicated on any plan or plat of any portion of the Pine Pointe Subdivision shall be considered as a Common Area unless and until it has been dedicated and/or declared by Declarant for the common use and enjoyment of the owners in the Pine Pointe Subdivision by a recorded instrument executed by Declarant.

Section 3. Declarant. "Declarant" shall mean and refer to Eiro Corporation, a Michigan corporation, its successors and assigns.

Section 4. Owner. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title (or in the case of any property which is the subject of a validly existing land contract, the land contract vendee) to any lot which is within the Pine Pointe Subdivision, except that one holding any such interest merely as security for the performance of an obligation shall not be deemed an owner. If there is more than one owner of an Assessment Unit, the owners shall designate who will vote on behalf of such Assessment Unit.

Section 5. Community Association. "Community Association" shall mean the non-profit corporation consisting of the owners of lots within Pine Pointe Subdivision which is responsible for the maintenance, administration, management and operation of the Common Areas.

ARTICLE II

ESTABLISHMENT AND OPERATION OF THE ASSOCIATION

Section 1. The Pine Pointe Subdivision Association. A Michigan non-profit corporation known as the Pine Pointe Subdivision Association (the "Association") will be established by Declarant pursuant to Articles of Incorporation and Bylaws. The general purpose of the Association is to encourage and to promote the highest standards of management and maintenance for the land included in the Pine Pointe Subdivision, and to assist the members of the Association in maintaining the Pine Pointe Subdivision as a residential development of the highest quality. In furtherance of such purposes, the Association shall have such power and authority as are conferred upon it in its Articles of Incorporation and by this Declaration. Its Board of Directors shall be vested with and shall exercise all powers and authorities thus conferred upon it.

Section 2. Membership in the Association. There shall be two classes of membership in the Association as established in its Articles of Incorporation. The Declarant shall be the "Class A" member; and each Owners' member shall be a "Class B" member.

Section 3. Voting. Membership in the Association shall be established in the manner set forth in its Articles of Incorporation. Voting by members of the Association shall be in accordance with the following provisions:

a. Prior to the conveyance by Declarant to individual purchase owners of 90% of all Assessment Units planned to be developed in the Pine Pointe Subdivision and the anticipated expansion thereof, as is determined by the development plan approved by the Township, as the same may be amended from time to time, for the Pine Pointe Subdivision and the anticipated expansion thereof, no member, other than the Class A member, shall be entitled to vote. Until such time, Declarant shall be solely entitled to appoint the Board of Directors of and vote in the Association. At and after the conveyance of 90% of the Assessment Units as set forth above, each member of the Association shall be entitled to vote in accordance with Paragraph "b" of this Section 3.

b. The presence in person or by proxy of members representing at least 60% in number of the Assessment Units qualified to vote shall constitute a quorum for holding a meeting of the members of the Association; except for voting on questions specifically required herein, or in the Articles of Incorporation or Bylaws of the Association, to require a greater quorum. The written

vote of any person furnished at or prior to any duly called meeting at which meeting said person is not otherwise present in person or by proxy shall be counted in determining the presence of a quorum with respect to the question upon which the vote is cast. Only one vote shall be cast for each Assessment Unit.

c. Votes may be cast in person, by proxy or by a writing duly signed by the designated voting representative not present at a given meeting in person or by proxy. Proxies and any written votes must be filed with the Secretary of the Association at or before the appointed time of each meeting of the members of the Association. Cumulative voting shall not be permitted.

d. A majority, except where otherwise provided herein or in the Articles of Incorporation or Bylaws of the Association, shall consist of the votes of more than 50% of the Assessment Units qualified to vote and voted by members of the Association in person or by proxy (or written vote if applicable) at a given meeting of the members of the Association. A majority shall be required for all matters and shall control unless a greater percentage is specifically required herein or in the Articles of Incorporation or Bylaws of the Association as to specific matters.

e. Other provisions as to voting by members, not inconsistent with the provisions herein contained, may be set forth in the Articles of Incorporation or Bylaws of the Association.

ARTICLE III

COMMON AREAS, LANDSCAPE AREAS AND EASEMENTS RELATED THERETO

Section 1. Nature and Extent of Common Areas. In addition to the Common Areas more particularly described in Article I, Section 2 hereof, Declarant may declare, dedicate and/or designate such additional Common Areas as it, in its sole discretion, deems appropriate, whether of an aesthetic, utilitarian, administrative, recreational or other nature. There is no obligation on the part of Declarant to create, construct, establish, declare, dedicate or designate any particular additional area or additional improvement as a Common Area unless it has specifically undertaken to do so in this Declaration or in a subsequent recorded instrument.

Section 2. Owners' Easements of Enjoyment of Common Areas. Subject to the provisions of Article V, Section 2, every Owner shall have an easement of enjoyment in and to the Common Areas now existing or hereafter designated by the Declarant, which right and easement shall be appurtenant to such ownership, subject to the following:

a. The right of the Association to make and enforce reasonable rules and regulations to carry out the terms of this Declaration and to fulfill its purposes pursuant to Article V, Section 2 hereof.

b. The right of the Association to charge fees for the maintenance of landscaping, situated within the Common Areas and lighting, if any, which fees shall be utilized solely for the maintenance, upkeep and administration of the Common Areas.

c. The right of the Association to construct, maintain and improve the Common Areas for the benefit of the Owners and to permit the use thereof by other persons, subject to the approval of all applicable governmental authorities.

d. The right of Declarant, at any time prior to the conveyance of 90% of the Assessment Units therein (and the Association thereafter) to grant easements, licenses, rights-of-entry and

rights-of-way over and across the Pine Pointe Subdivision.

Section 3. Utility Easements.

a. Declarant also hereby reserves for the benefit of itself and all future Owners of the Pine Pointe Subdivision or any portion(s) thereof perpetual easements to utilize, tap, tie into, extend and enlarge all utility mains located in the Pine Pointe Subdivision, including but not limited to, water, gas, electric, telephone, telecommunications, storm and sanitary sewer mains, subject to the prior approval of all governmental authorities and public utilities having jurisdiction. In the event Declarant taps, ties into, extends or enlarges any utilities located in the Pine Pointe Subdivision, it shall be obligated to pay all of the expenses reasonably necessary to restore the affected portion of the Pine Pointe Subdivision to its state immediately prior to such tapping, tying-in, extension or enlargement.

b. Declarant shall also be empowered to grant such easements, licenses, rights-of-entry and rights-of-way, under and across the Common Areas to the Township, other public authorities or private utilities, as may be necessary for it to fulfill any responsibilities of construction, maintenance, repair, decoration or replacement of any of the utilities, including without limitation sanitary and storm sewer systems, servicing the Pine Pointe Subdivision.

Section 4. Maintenance of Subdivision Identification Signs and Landscape Easements. The Association shall be permitted to enter upon those portions of the plat of the subdivision as may be necessary to install, repair, replace and maintain such signs, walls, lighting, sprinkling systems and planting, if any, hereinafter collectively referred to as the "Landscape Easement", in accordance with the landscaping plan approved by Macomb Township.

In the event the Association shall, at any time, fail to maintain the Landscape Easement in accordance with the approved landscape plan, then, Macomb Township is authorized to enter the Landscape Easement to maintain the same. The Township shall serve notice by first class mail to the owner(s), appearing on the Township tax rolls, of each lot in the subdivision. The notice shall include a demand that deficiencies in the maintenance be cured within thirty (30) days thereof and notify the owners of the date, time and place of a public hearing before the Township Board of Trustees or such other boards or body of officials to whom the Township may delegate such responsibility. The hearing shall be held within fifteen (15) days of the notice. At the hearing the Township may modify the terms of the original notice of deficiencies in maintenance and may grant an extension of time within which the deficiencies shall be cured. If the deficiencies, set forth in the original notice or in the modification thereof, are not cured within thirty (30) days or any extensions of time granted at the hearing, the Township, in order to eliminate and cure the deficiencies in the operation and maintenance of the Landscape Easement, may enter upon the property and maintain the Landscape Easement for a period of up to one (1) year. Maintenance of the Landscape Easement by the Township shall not constitute a taking of the Landscape Easement nor vest in the public any additional right to use the same.

Within sixty (60) days prior to the expiration of the aforesaid one (1) year period, that the Landscape Easement is under the control and jurisdiction of the Township, a majority of the lot owners or the Association may request another public hearing be held or the Township may call another public hearing upon notice in the same manner as set forth above. At the hearing the Association or lot owners shall show cause why maintenance by the Township shall not continue for a succeeding one (1) year period. If the Township shall, reasonably, determine that the Association and/or lot owners are ready, willing and able to maintain the Landscape Easement, the Township shall cease to operate and maintain the Landscape Easement at the end of said year. If the Township shall reasonably determine that the Association or lot owners are not ready, willing and able to maintain the Landscape Easement during the

next succeeding year, then subject to a similar public hearing and determination in each successive year thereafter, the Township may continue to enter upon and maintain said Landscape Easement.

Should deficiencies in the maintenance of the Landscape Easement be determined by the Township to constitute an impending danger to health, safety and welfare of the public, or a public or private nuisance, the Township shall have the right to take immediate correction action and summarily abate such danger or nuisance.

The Association and/or lot owners shall hold harmless, defend and indemnify the Township from any and all claims, demands, costs, expenses, including attorney fees and judgements, whatsoever, which may arise from the Township's maintenance of the Landscape Easement.

The actual costs and expenditures, including administration expenses and attorney fees, incurred by the Township as a result of its maintenance of the Landscape Easement or the immediate abatement of an impending danger or nuisance in relation thereto, shall be at the expense of the Association or the lot owners and such costs and expenditures shall be assessed against the lots in the subdivision and become due, collected and returned for non-payment in the same manner and at the same time as ad valorem property tax levies of the Township.

The Township, at its option, shall be subrogated to any rights the Association may have in this Declaration for the imposition of assessments and the collection thereof in relation to the Landscape Easement.

The maintenance provisions contain in this Article, or section, shall not be amended in any way without the prior written consent of the Macomb Township Board of Trustees.

Section 5. Termination of Easements. If the appropriate governmental authority, within its sole discretion, accepts a dedication and conveyance of any Common Area, or any part thereof, the obligation of the Declarant and the Association to maintain such Common Area, or portion thereof, so dedicated, shall terminate, but the right of the owners of Assessment Units to continue to use such dedicated Common Areas shall continue. At such time, the appropriate governmental authority shall undertake all maintenance obligations with respect to the Common Area, or portion thereof, so dedicated, and the obligation of Declarant and the Association with respect thereto shall terminate, except with respect to outstanding assessments for maintenance obligations as provided for herein.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. The Declarant hereby covenants, and each Owner of any Assessment Unit by acquisition of title thereto or an interest therein is deemed to covenant, and agrees to pay to the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall from date of assessment be a charge and a continuing lien upon the Assessment Unit against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Assessment Unit at the time when the assessment fell due, except a land contract purchaser shall be so personally liable and such land contract seller shall not be personally liable for all such assessments levied up to and including the date upon which such land contract seller actually retakes possession of such Assessment Unit following extinguishment of all rights of the land contract purchaser of the Assessment

Unit. The personal obligation for the delinquent assessment shall not pass to successor Owners unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, welfare and recreation of the residents of the Pine Pointe Subdivision, including, but not limited to, the improvement and maintenance, repair and replacement of, and insurance for the Common Areas and all improvements thereon, the payment of taxes and assessments, if any, levied against the Common Areas and, in general, the carrying out of the purposes set forth in or permitted by this Declaration and for the general welfare of the Pine Pointe Subdivision. The Association may provide for reasonable reserves for contingencies, replacements and improvements.

Section 3. Method of Assessment. The following shall be assessable.

a. The assessment shall be made against all Assessment Units in the Pine Pointe Subdivision. The Common Areas, except to the extent of an undivided ownership interest therein owned by the Owner of any Assessment Unit, shall not be subject to assessments hereunder. The items of expense which are included within the annual assessment shall be determined by the Association in its sole discretion, subject to the limitations set forth in this Article IV, Section 3, and shall be subject to equal proration among the Assessment Units.

b. The total assessment shall be made against each Assessment Unit as provided in subparagraph a. above, subject to the following:

(i) The initial assessment for the calendar year 1999 shall not exceed \$100.00 per year per Assessment Unit.

(ii) The \$100.00 assessment limitation set forth in subparagraph (i) above shall be subject to upward adjustments by the Association of no more than 10% per year commencing January 1, 2000, and continuing for each year thereafter, unless a greater increase is approved by a vote of a majority of the Assessment Units then entitled to vote.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy a special assessment for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement upon the Common Areas, including fixtures and personal property relating thereto, or the cost of establishing or adding to a reserve therefore, provided that any such assessment shall have the approval, at a meeting duly called for such purpose, of the votes of the Owners of more than 60% of all Assessment Units, giving one (1) vote for each Assessment Unit. Voting at such meeting shall be in person, by proxy or by a written absentee ballot in which the question or questions to be decided are specifically set forth. Notwithstanding the foregoing, special assessments may be levied by the Association without a vote of Assessment Unit Owners against individual Owners of Assessments Units or against the Association as provided in Article V, Section 5 hereof and may also be levied to relieve any deficiency in the Association's current operating funds to provide for maintenance, repair and/or replacement of the Common Areas and any facilities therein.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Assessment Units, except for special assessments pursuant to the power reserved to the Association pursuant to Article V, Section 5, hereof, which shall be assessed as provided therein.

Section 6. Assessments: Date of Commencement and Due Dates. The Association shall fix

the rate of the annual assessment, subject to the limitations set forth in Article IV, Section 3 hereof, and the amount of assessment against each Assessment Unit at least thirty (30) days in advance of each annual assessment period. Written notice of annual assessments shall be sent to every Owner immediately after action assessing the same, provided, however, that where there is more than one Owner of an Assessment Unit, only one notice need be sent. The due date for payment shall be established and shall be stated in said notice. The Association shall, upon demand by any person having an interest in an Assessment Unit, furnish a certificate signed by an authorized person with knowledge setting forth whether or not all assessments have been paid and setting forth the unpaid amounts, if any, interest charges and due dates. The Association shall compile the names and addresses of all Assessment Unit Owners who have failed to pay the assessments levied hereunder.

Section 7. **Effect of Non-Payment of Assessments: Remedies.** Any assessment not paid within thirty (30) days after the due date (together with expenses of collection set forth below) shall bear interest from the due date at the rate of 7% per annum or at such lesser uniform rate as shall be established by the Association at the time of the fixing of the assessment period. Additionally, the Association may set automatic late charges and/or assess fines for the failure of an Owner to pay his assessments in a timely manner provided that the same is done on a uniform basis for all Assessment Units. The Association may bring an action against a delinquent Owner or other person personally obligated to pay the same and/or may foreclose the lien established by the terms of this Declaration in the same manner that real estate mortgages may be foreclosed by action under Michigan law. The expenses incurred in collecting unpaid assessments including interest, costs and attorneys' fees and advances for taxes and other liens to protect the lien for assessments shall be chargeable to the Owner in default and shall be secured by the lien on his parcel or Assessment Unit. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or by abandonment of his Assessment Unit.

Section 8. **Subordination of the Lien to Mortgages.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage on any of the Properties. Sale or transfer of any Assessment Unit shall not affect the assessment lien. However, the sale or transfer of any parcel or Assessment Unit pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer (except for claims for a pro rata share of such assessments or charges resulting from a pro rata reallocation of such assessments or charges to all Properties, including the mortgaged property). No foreclosure sale or transfer in lieu thereof shall relieve such parcel or dwelling unit from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

GENERAL

Section 1. **Remedies for Violations.** For a violation or breach of any of these reservations, covenants, conditions, restrictions, and rules and regulations of this Declaration, the Declarant, the Association, or any member of the Association, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent or obtain damages for the violation or breach of any provision hereof or to seek relief as follows:

- a. **Legal Action.** Failure to comply with any of the terms or provisions of this Declaration shall be grounds for relief, which may include, without intending to limit the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien (if default in payment of assessment) or any combination thereof, and such relief may be sought by the Declarant or the Association_____

b. **Recovery of Costs.** In any proceeding which arises because of any alleged default under this Declaration of any Owners' Association or the Owner of any Assessment Unit, then the Declarant, the Association or the member of the Association seeking enforcement, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorney's fees (not limited to statutory fees) as may be determined by the court, but in no event shall any Assessment Unit Owner or the Association be entitled to recover such attorney's fees.

c. **Abatement.** The violation of any of the provisions of this Declaration or rules and regulations shall also give the Declarant, the Association or any member of the Association, the right, in addition to the rights set forth above, to enter upon any Assessment Unit, or any of the Common Areas, where reasonably necessary, and summarily remove, abate or rectify, at the expense of the person or entity committing the infraction, any structure, thing or condition maintained contrary to the provisions of this Declaration. The Association shall have no liability to any person arising out of its removal, abatement and rectification power authorized herein. The powers herein set forth are granted both generally and specifically in furtherance of Article V, Section 5 hereof.

d. **Assessment of Fines.** The violation of any of the provisions of this Declaration by any Owner of any Assessment Unit shall be grounds for assessment by the Association, acting through its duly constituted Board of Directors, of monetary fines for such violations. No fine may be assessed unless rules and regulations establishing such fine have first been duly adopted by the Board of Directors of the Association and notice thereof given to the offending Assessment Unit Owner. All fines duly assessed may be collected in the same manner as provided in Article IV of this Declaration. There shall be no fine for an initial infraction and no fine shall exceed \$25.00 for the second violation, \$50.00 for the third violation or \$100.00 for any subsequent violation.

e. **Non-waiver of Right.** The failure of the Declarant, the Association or of any other person or entity within the Pine Pointe Subdivision to enforce any right, provision, covenant or condition which may be granted by this Declaration shall not constitute a waiver of the right of the Declarant or Association or such person or entity to enforce such right, provision, covenant or condition in the future.

f. **Cumulative Rights, Remedies and Privileges.** All rights, remedies and privileges granted to the Declarant or Association or any other person or entity pursuant to any terms, provisions, covenants or conditions of this Declaration shall be deemed to be cumulative and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

Section 2. Addition of Common Areas. Declarant may hereafter add or reduce, by separate recorded Declaration or by amendment to this Declaration, other land in the vicinity of the Pine Pointe Subdivision to the Common Areas and incorporate such other land into the Pine Pointe Subdivision. Declarant may, as development progresses, add to the Common Areas and may, but shall not be obligated to, add other parcels to the Common Areas to be used for recreational or common amenity purposes. Declarant may also, in its sole discretion, convey to the Association other Common Areas as may be constructed and added to this Declaration. The rights of the Declarant as reserved in this Section 2 shall remain throughout the period of development by Declarant of the Pine Pointe Subdivision. No additions or reductions to the Common Areas shall be recorded until the change is approved in writing by the Township of Macomb. - - -

Section 3. **Association Bank Account.** All assessments collected by Declarant shall be held in and expended from a separate bank account in the name of the Association. Said assessments and the expenditures thereof shall be accounted for pursuant to generally accepted accounting procedures. After the Association is controlled by the Class B members, the books of account shall be audited annually by qualified independent auditors; provided, however, that such auditors need not be certified public accountants nor does such audit need to be a certified audit. The costs of any audit and accounting expenses shall be paid for by the Association.

Section 4. **Duration; Amendment.** The provisions of this Declaration shall run with and bind all land within the Pine Pointe Subdivision for a period of twenty (20) years from the date hereof, after which time they shall be extended automatically for successive periods of ten (10) years each unless 75% of the Assessment Units in the Pine Pointe Subdivision vote to limit or remove the provisions hereof; provided, however, all utility easements contained in this Declaration shall be perpetual. Prior to the date of the First Annual Meeting of the Association, this Declaration may be amended or restated in its entirety upon the sole discretion of the Declarant or its successors or assigns for the purpose of creating additional easements, or altering or amending existing easements, or for the purpose of adding additional Common Areas and Residential Areas, or to clarify or amplify some portion or portions hereof; provided such amendments are in furtherance of the purposes of this Declaration. All of the Owners or Mortgagees of Assessment Units and other persons interested or to become interested in the Pine Pointe Subdivision from time to time shall be deemed to have irrevocably and unanimously consented to such amendment or amendments to this Declaration. All such interested persons irrevocably appoint Declarant or its successors as agent and attorney for the execution of such amendments to this Declaration and all other documents necessary to effectuate the foregoing. Subsequent to the time at which the Class B members of the Association acquire the right to vote after 75% of the Assessment Units planned to be constructed in the Pine Pointe Subdivision and the anticipated expansion thereof have been conveyed by the Declarant, this Declaration may be amended by the affirmative vote (in person or in writing) of 75% of all Owners of Assessment Units within the Pine Pointe Subdivision; PROVIDED, HOWEVER, that there shall be no amendment to this Declaration prior to the sale and conveyance by Declarant of the last Assessment Unit to be constructed in the Pine Pointe Subdivision without Declarant's express written consent, further provided, however, that Article V, Sections 8 through 16 of this Declaration shall not be amended without the written consent of the Township. Notwithstanding the terms and conditions of this section, the Township shall have the right to maintain the landscaping easement perpetually, pursuant to the terms and conditions contained in Article III, Section 4 of this Declaration.

Section 5. **Assignment.** Any or all of the rights and powers granted or reserved to the Declarant in this Declaration, including the power to approve or disapprove any act, use or proposed action or any other matter or thing, may be assigned by it to any other entity or to the Association. Any such assignment or transfer shall be made by appropriate instrument in writing duly recorded in the office of the Macomb County Register of Deeds.

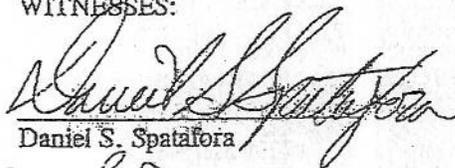
Section 6. **Enforcement.** The terms, covenants and agreements contained in this Declaration may be enforced by the Declarant, the Association after the conveyance of 75% of the Assessment Units by Declarant or, as specifically provided herein, the Township.

Section 7. **Severability.** In the event that any of the terms, provisions or covenants of this Declaration are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, modify or impair in any manner whatsoever any of the other terms, provisions or covenants of this Declaration or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

Section 8. **Additional Land.** In the event Developer develops or subdivides additional land

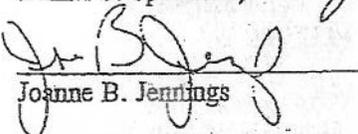
within the area described on Exhibit "A" attached hereto and by this reference incorporated herein and attached hereto and desires to subject such new development(s) or subdivision(s) to declarations substantially in the form to those imposed upon the Subdivision, including requirements for the payment of maintenance charges and the requirement for mandatory membership in the Subdivision Association, said land may be incorporated within said Association for the purpose of the interpretation and enforcement of these Declaration of Easements, Covenants, Conditions and Restrictions for Pine Pointe Subdivision. In such event, these restrictions and those applicable to the new development(s) or subdivision(s) shall be considered to be reciprocal negative easements thus making the restrictions applicable herein enforceable by property owners in the new land and restrictions applicable to said new land enforceable by property owners of the Subdivision.

WITNESSES:


Daniel S. Spatafora

Elro Corporation, a
Michigan corporation

By: 
Richard A. Schoenherr,
Executive Vice President

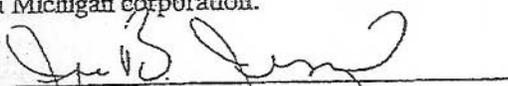

Joanne B. Jennings

STATE OF MICHIGAN)

) SS

COUNTY OF OAKLAND)

On July 30, 1998, the foregoing instrument was acknowledged before me by Richard A. Schoenherr, Executive Vice President of Elro Corporation, a Michigan corporation.


Joanne B. Jennings
Notary Public, Oakland County, MI
My commission expires: July 7, 1999

DRAFTED BY AND WHEN RECORDED RETURN TO:

Richard A. Schoenherr
Elro Corporation
201 W. Big Beaver Road, Suite 720
Troy, MI 48084

EXHIBIT "A"

LEGAL DESCRIPTION:

- PART OF THE SOUTHWEST 1/4 OF FRACTIONAL SECTION 6, T.3N., R.13E., MACOMB TOWNSHIP, MACOMB COUNTY, MICHIGAN; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE SOUTH LINE OF SAID SECTION 6 WHICH IS N88°25'28"W 450.00 FT. FROM THE SOUTH 1/4 CORNER OF SECTION 6, T.3N., R.13E.; THENCE N88°25'28"W 423.45 FT. ALONG THE SOUTH LINE OF SECTION 6, ALSO BEING (IN PART) THE NORTH LINE OF "BAYBERRY PARK SUB. No. 4" (LIBER 121, PAGES 6 THROUGH 9, INCLUSIVE, MACOMB COUNTY RECORDS) AND (IN PART) THE NORTH LINE OF "BAYBERRY PARK SUB. No. 1" (LIBER 107, PAGES 21 THROUGH 25, INCLUSIVE, MACOMB COUNTY RECORDS); THENCE N00°02'33"E 2243.38 FT.; THENCE N45°38'37"E 434.51 FT.; THENCE S88°45'20"E 560.17 FT.; THENCE S00°00'59"E 1493.00 FT. ALONG THE NORTH AND SOUTH 1/4 LINE OF SECTION 6, ALSO BEING THE WEST LINE OF "THE RIV SUBDIVISION" THENCE N88°25'28"W 450.00 FT.; THENCE S00°00'59"E 1066.00 FT. TO 1 POINT OF BEGINNING.
CONTAINING 1,701,020 SQUARE FEET ---- 39.050 ACRES

RIDER ATTACHED TO 2000 NONPROFIT CORPORATION INFORMATION UPDATE
PINE POINTE SUBDIVISION ASSOCIATION,
A MICHIGAN NON-PROFIT CORPORATION

COPY

Article 4.

The purpose or purposes for which the corporation is organized are as follows:

1. To promote the health, safety and welfare of the residents of Pine Pointe Subdivision, Section 6, Macomb Township, Macomb County, Michigan.
2. To acquire, own, hold, improve, build upon, operate and maintain the entranceways to the subdivision, public easements, storm water retention areas and discharge restriction systems, parkways, pathways and common areas, if any, and to utilize said areas as designated for ingress and egress, recreation, storm water retention, discharge restriction systems and playground purposes, including buildings, structures, personal property and improvements incident thereto, now existing or hereinafter to be established.
3. To maintain and otherwise manage landscaping, lighting, parking areas, walk areas and recreational facilities upon the common areas within the properties; to pay all taxes, assessments and special assessments which may be properly levied or assessed against property acquired by the Association; to repair, maintain, rehabilitate and restore the common areas and storm water retention areas and discharge restriction systems and facilities within the properties and to secure payment of charges and assessments due to the Association and to collect, foreclose or otherwise enforce, compromise, release, satisfy and discharge said demands, and to do all other acts necessary to the filing, maintenance and discharge of liens; and to take any action necessary to enforce the covenants, restrictions, reservations and conditions which at present or in the future affect the properties either by recorded instruments, by-laws of the Association, rules and regulations of the Association or in any other way created.
4. To borrow money and issue evidence of indebtedness in furtherance of any or all of the objects of the business of the Association, and to secure the liability to be incurred thereby in such amount as shall be authorized by the Board of Directors of the Association in conformity with and in the manner as may be prescribed by the by-laws of said Association, provided that the total debts of the Association, whether currently payable or not, shall exceed the total of two (2) years assessments at the rate then in force.
5. To do any and all lawful things and acts which the Association, at any time, and from time to time shall, in its discretion, deem to be in the best interests of the members of the Association, and to pay all costs and expenses in connection therewith and in connection with any and all purposes of the Association, and, further, to do any and all lawful things which may be advisable, proper, authorized or permitted to be done by the Association and by virtue of any condition, covenant, restriction, reservation, charge or assessment affecting the properties or any portion thereof, and to do and perform any and all acts which may be either necessary for or incidental to the exercise of any of the foregoing powers, or for the peace, health, comfort, safety or general welfare of the members of the Association, and further to do any and all things and exercise all rights and powers permitted to corporations incorporated not for profit under the laws of the State of Michigan in connection with the foregoing purposes.

**AMENDMENT NO. 1 TO DECLARATION OF
EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR
PINE POINTE SUBDIVISION**

This amendment, made February 12, 1999, is intended to add an Article VI to the Declaration of Easements, Covenants, Conditions and Restrictions for Pine Pointe Subdivision. The subdivision plat was recorded in Liber 133, Pages 12 through 19, Macomb County Records. The Declaration of Easements, Covenants, Conditions and Restrictions was recorded in Liber _____, Pages _____, Macomb County Records.

The Declaration incorporates by reference the recitals, Articles I through V and all exhibits of the Declaration of Easements, Covenants, Conditions and Restrictions for Pine Pointe Subdivision and adds Article VI to read as follows:

ARTICLE VI

BUILDING AND USE RESTRICTIONS

Section 1. These restrictions are covenants which shall run with the land and shall be binding on all parties hereto and all parties claiming under or through them for a period of thirty (30) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless it is on the date or at the end of any such period agreed by a vote of the then Owners of a majority of the lots included in the above described land to change such restrictions in whole or in part or to cancel them, or at anytime upon the agreement of eighty percent (80%) of the fee title holders and with the agreement of the Township of Macomb and its duly adopted ordinances.

Section 2. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two (2) stories in height and private attached garage for not more than three (3) cars.

Section 3. No dwelling on any lot in the Subdivision shall have an area of less than 1500 square feet exclusive of open porches and garages for a one (1) story structure; 1000 square feet on the first floor for a one and one half (1½) story structure; and 1000 square feet on the first floor for a two (2) story structure.

Section 4. Minimum Yard Requirements - No building on any lot in the Subdivision shall be erected nearer than:

- a. Twenty five (25') feet from the front line; nor
- b. Five (5') feet minimum from any side lot line with the combined total of both side yards not less than fifteen (15') feet; nor
- c. Thirty five (35') feet from the rear lot line.

Approval of a variance by the Township of Macomb permitting yards smaller than the above minimums shall be deemed a valid waiver of this restriction.

Section 5. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and no buildings are to be constructed within the easements.

Section 6. No structure of a temporary character, trailer, tent, shack, barn or other outbuildings shall be placed on any lot at any time, either temporarily or permanently, except a structure to be used by builders for storage of materials during the construction period.

Section 7. No fence, wall or other structure shall be located in the greenbelt/landscape easement located on the south twenty five (25') feet of those lots siding or rearing to 25 Mile Road unless specifically part of the approved landscape plan.

Section 8. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereupon which may be or may become an annoyance or nuisance to the neighborhood.

Section 9. No building shall be constructed without the prior written approval of the Developer or Developer's assignee, i.e. Homeowners Association, as to the architectural design and materials to be used in the construction in order to insure reasonable uniformity in quality and appearance of each dwelling or other building in the Subdivision.

Section 10. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes.

Section 11. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. The use of any incinerator shall be a type which will not cause offensive odors when burning and must comply with all local, regional and state requirements.

Section 12. No business, trade, profession or commercial activity calling for home occupation of any kind shall be conducted in any building or on any portion of the property, except builders' sales offices may be used and maintained until all of the lots in the Subdivision have homes constructed thereon and occupied as a place of residence.

Section 13. If the parties hereto, or any of them or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons owning any real property situated in said development to prosecute any proceedings at law or in equity against, the persons violating or attempting to violate any such covenants and either to prevent him or them doing so or to recover damages or other dues for such violations.

Section 14. All new public utilities such as water mains, sanitary sewer, storm sewers, gas mains, electric and telephone local Subdivision distribution lines, and all connections to same, either private or otherwise, shall be installed underground; provided, however, that above ground transformers, pedestals and other above ground electric and telephone utility equipment associated with or necessary for underground utility installations and distributions systems and surface lighting stanchions shall be permitted. Lots 1 through 124, both inclusive, are, in addition, subject to the terms of a certain Restriction Agreement executed between the undersigned and the Detroit Edison Company and Ameritech, relating to the installation and maintenance of the underground electric and communication service and facilities, and which instruments are, by this reference, incorporated herein.

Section 15. No inoperative vehicles, commercial vehicles, house trailers or mobile trailers, boats or boat trailers shall be permitted to be parked or stored on any lot in said Subdivision unless such vehicles are parked or stored in a garage on said lot which conforms to the requirements pertaining to the construction of garages as set forth above.

Section 16. Each owner/occupant shall, within sixty (60) days of receipt of fee simple title, install or cause to have installed seed and mulch or sod or other vegetative growth covering all exposed earth; provided, however, if such fee simple title shall be received between October 1 in any year and April 15 of the next succeeding year, the obligations as above set forth shall be completed no later than May 15 of the succeeding year.

Section 17. Invalidation of any of these covenants by judgement or court order shall in nowise affect any of the other provisions which shall remain in full force and effect.

Section 18. Nothing herein provided shall constitute a waiver of, inapplicability of or invalidity of any current or future ordinance of the Township of Macomb or its successors, and to the extent and degree any such ordinance or any portions, terms or conditions are more restrictive than herein provided, such ordinance, or any portions thereof shall take precedence and be treated as having the full force and effect as being a part herein incorporated by reference in this instrument.

Section 19. There shall be no ingress or egress to 25 Mile Road from those lots siding or rearing to 25 Mile Road.

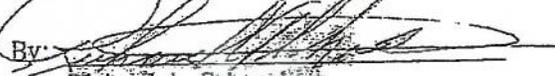
Section 20. In the event Developer develops or subdivides additional land within the area described on the exhibits and desires to subject such new development(s) or subdivision(s) to declarations substantially in the form to those imposed upon the Subdivision, including requirements for the payment of maintenance charges and the requirement for mandatory membership in the Subdivision Association, said land may be incorporated within said Association for the purpose of the interpretation and enforcement of these Building and Use Restrictions for Pine Pointe Subdivision No. 1. In such event, these restrictions and those applicable to the new development(s) or subdivision(s) shall be considered to be reciprocal negative easements thus making the restrictions applicable herein enforceable by property owners in the new land and restrictions applicable to said new land enforceable by property owners of the Subdivision.

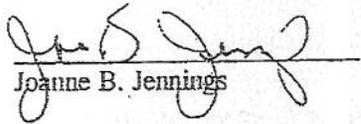
Section 21. Satellite receivers and dish antennae are permissible subject to Macomb Township Zoning Ordinance No. 10, Sections 10.0331 and 10.0336.

WITNESSES:


Daniel S. Spatolara

Elro Corporation,
a MI corporation.

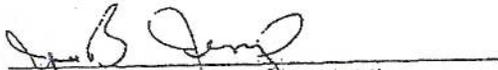
By: 
Richard A. Schoenherr
Executive Vice President


Joanne B. Jennings

201 W. Big Beaver Road, Suite 720
Troy, Michigan 48084-5297

STATE OF MICHIGAN)
COUNTY OF OAKLAND)

The foregoing instrument was acknowledged before me February 12, 1999, by Richard A. Schoenherr, Executive Vice President of Elro Corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged the execution thereof to be on behalf of Elro Corporation.


Joanne B. Jennings, Notary Public,
Oakland County, Michigan
My commission expires: July 7, 1999

DRAFTED BY AND WHEN RECORDED RETURN TO:

Richard A. Schoenherr
Elro Corporation
201 W. Big Beaver Road, Suite 720
Troy, MI 48084-5297