

DECLARATION OF RESTRICTIONS  
EAST HARBOUR DEVELOPMENT PROJECT

1419

BOOK 159 PAGE 167

THIS DECLARATION made this 6th day of November, 1979, by The Shorewood Corporation, an Indiana corporation (hereinafter referred to as the "Developer"), WITNESSES:

WHEREAS, the Developer is the owner of all of the lands contained in the area shown on Exhibit A, attached hereto and made a part hereof, which lands will be subdivided and known as the "East Harbour Development Project" (hereinafter referred to as the "Development"), and will be more particularly described on the plats of the various sections thereof recorded and to be recorded in the Office of the Recorder of Hamilton County, Indiana; and

WHEREAS, the Developer is about to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions") under a general plan or scheme of improvement for the benefit and complement of the lots and lands in the Development and the future owners thereof;

NOW, THEREFORE, the Developer hereby declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon the Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of the Developer and every one of the Developer's successors in title to any real estate in the Development. The Developer specifically reserves unto itself the right and privilege, prior to the recording of the plat by the Developer of a particular lot or tract within the Development as shown on Exhibit A, to exclude any real estate so shown from the Development, or to include additional real estate.

This Instrument Recorded Nov. 7 1979

MARY L. CLARK, RECORDER, HAMILTON COUNTY, IND.

1. DEFINITIONS. The following are the definitions of the terms as they are used in this Declaration:

A. "Committee" shall mean the East Harbour Development Control Committee, composed of three members appointed by the Developer who shall be subject to removal by the Developer at any time with or without cause. Any vacancies from time to time existing shall be filled by appointment of the Developer.

B. "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by one of the plats of the Development which is recorded in the Office of the Recorder of Hamilton County, Indiana.

C. Approvals, determinations, permissions, or consents required herein shall be deemed given if they are given in writing signed, with respect to the Developer or Indianapolis Water Company by the President or Vice President thereof, and with respect to the Committee, by two members thereof.

D. "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

## 2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every numbered lot in the Development, unless it is otherwise designated by the Developer, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house and such outbuildings as are usually accessory to a single family dwelling house.

B. Residential Use of Accessory Outbuildings Prohibited. No accessory outbuildings shall be erected on any of the residential lots prior to the erection thereon of a single family dwelling house, and in no event shall any such accessory outbuilding or any temporary structure which may be constructed upon a residential lot under these Restrictions ever be used as a residence or dwelling house or place for human occupancy or habitation.

C. Occupancy or Residential Use of Partially Completed Dwelling House Prohibited. No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The determination of whether the house shall have been substantially completed shall be made by the Committee and such decision shall be binding on all parties.

D. Other Restrictions. All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record between the Indianapolis Water Company and the Developer, recorded in Book 121, Instrument No. 4862 in the Office of the Recorder of Hamilton County, Indiana, and also to all governmental zoning authority and regulation affecting the Development, all of which are incorporated herein by reference.

## 3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. Minimum Living Space Areas. The minimum square footage of living space of dwellings constructed on various residential lots in the Development, exclusive of porches, terraces, garages, carports, accessory buildings, or basements shall be 1,800 square feet.

### B. Residential Set-Back Requirements.

(1) In General. Unless otherwise provided in these restrictions or on the recorded plat, no dwelling house or above grade structure shall be constructed or placed on any residential lot in the Development except as provided herein.

(ii) Definitions. "Side line" means a lot boundary line that extends from the road on which a lot abuts to the rear line of said lot. "Rear line" means the lot boundary line that is farthest from, and substantially parallel to, the road on which the lot abuts, except that on corner lots, it may be determined from either abutting road.

(iii) Front Yards. The front building set-back lines shall be the designated number of feet from the right-of-way of the road upon which the lot abuts as set forth upon the plats of the Development.

(iv) Side Yards. The side yard set-back lines shall not be less than 8 feet from the side line of the lot on one side and the total of both side yards shall be not less than 20% of the entire width of the lot.

(v) Rear Yards. The rear set-back line shall be at least 20 feet from the rear line, but if the lot abuts on Morse Reservoir, the Committee may determine that the location of the building line adjacent to the Reservoir shall be otherwise.

C. Fences and Trees. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, any fence must be approved by the Committee as to size, location, height and composition before it may be installed. A lot must have at least two trees growing upon it by the time the house is completed, and if this requires plantings by the Owner, the Committee must approve the size and location of such trees.

D. Exterior Construction. The finished exterior of every building constructed or placed on any lot in the Development shall be of material other than tar paper, rollbrick siding or any other similar material. All driveways must be paved with asphalt or concrete from their point of connection with the abutting street or road.

E. Heating Plants and Garages. Every house in the Development must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the house. Every house in the Development must have a garage.

F. Individual Yard Lights Required on Each Lot in the Development. At the time that the Owner of a lot in the Development completes the construction of a home on his lot, he shall install or cause to have installed a dusk to dawn yard light in the front yard of his lot. The design, type and location of the yard light shall be subject to the approval of the Committee.

G. Diligence in Construction. Every building whose construction or placement on any residential lot in the Development is begun shall be completed within nine (9) months after the beginning of such construction or placement. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

H. Prohibition of Used Structures. All structures constructed or placed on any numbered lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such lot.

I. Maintenance of Lots and Improvements. The Owner of any lot in the Development shall at all times maintain the lot and any improvements situated thereon in such a manner as to prevent the lot or improvements from becoming unsightly; and, specifically, such Owner shall:

(i) Mow the lot at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds.

(ii) Remove all debris or rubbish.

(iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.

(iv) Cut down and remove dead trees.

(v) Where applicable, prevent debris or foreign material from entering Morse Reservoir, or, when any such debris has entered Morse Reservoir from the lot, remove the same immediately.

(vi) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

(vii) All tools, equipment and materials such as lawn mowers, bicycles and toys shall be stored so as not to be visible from any street or other lot in the Development.

J. Developer's Right to Perform Certain Maintenance. In the event that the Owner of any lot in the Development shall fail to maintain his lot and any improvements situated thereon in accordance with the provisions of these restrictions, the Developer shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such lot and improvements situated thereon, if any, conform to the requirements of these restrictions. The cost therefor to the Developer shall be collected in any reasonable manner from the Owner. Neither the Developer nor any of its agents, employees, or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

4. PROVISIONS RESPECTING DISPOSAL OF SANITARY WASTE.

A. Nuisances. No outside toilets shall be permitted on any lot in the Development (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to enter Morse Reservoir. No discharge from any floor drain shall be permitted to enter into Morse Reservoir. By purchase of a lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Indianapolis Water Company or the Developer in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall become a charge or lien upon the lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt.

Neither Indianapolis Water Company nor the Developer, nor any officer, agent, employee or contractor thereof, shall be liable for any damage which may result from enforcement of this paragraph.

B. Construction of Sewage Lines. All sanitary sewage lines on the residential building lots shall be designed and constructed in accordance with the provisions and requirements of the Hamilton County Board of Health. Copies of all permits, plans and designs relating to the construction of a sanitary sewer service line shall be submitted in duplicate to the Committee at the time of the submission of all other plans or documents required for the obtaining from said Committee of a permit to build.

5. GENERAL PROHIBITIONS.

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

B. Signs. No signs or advertisements shall be displayed or placed on any lot or structures in the Development without the prior written approval of the Committee.

C. Animals. No animals shall be kept or maintained on any lot in the Development except the usual household pets, and, in such case, such household pets shall be kept reasonably confined so as not to become a nuisance.

D. Vehicle Parking on a Lot. No campers, trucks, trailers, boats or similar vehicles shall be parked for overnight or longer storage on any lot in the Development, unless the same shall be screened in such a manner that it is not openly visible to the occupants of other lots in the Development, the users of any street in the Development, or to persons upon Morse Reservoir. A determination of what constitutes adequate screening in order to satisfy the requirements of this restriction shall be the responsibility of the Committee.

E. No Vehicle Parking on Streets in the Development. No automobiles, trucks, campers, trailers, boats or other similar vehicles shall be parked on any street in the Development.

F. Garbage, Trash and Other Refuse. No Owner of a lot in the Development shall burn or permit the burning out of doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out of doors of such refuse on his lot except as may be permitted in subparagraph G below. All houses built in the Development shall be equipped with a garbage disposal unit.

G. Fuel Storage Tanks and Trash Receptacles. Every tank for the storage of fuel that is installed outside any building in the Development shall be buried below the surface of the ground. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Development at anytime, except at the times when refuse collections are being made.

H. Model Homes. No Owner of any lot in the Development shall build or permit the building upon said lot of any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Developer.

I. Temporary Structures. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any lot nor shall any overnight camping be permitted on any lot, except upon lands specifically designated by the Developer for camping purposes, and then only subject to such rules as may be adopted by the Developer for the use of camping areas.

J. Docks and Piers. No pier, dock or other structure may be constructed in such a manner that any portion thereof extends more than 25 feet from the shore into Morse Reservoir, and in no event shall any pier, dock or other structure be erected that does not conform to the specifications established by the Committee.

K. Beaches. No beach may be constructed on Morse Reservoir unless the plans and specifications for the beach are submitted to and approved by the Committee. Beaches shall be constructed of sand only, which shall not extend farther than 25 feet from the shoreline into Morse Reservoir. No spoil materials shall be placed or allowed to collect in Morse Reservoir which result from beach construction.

L. Ditches and Swales. It shall be the duty of every Owner of every lot in the development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said lot as may be reasonably necessary to accomplish the purposes of this subsection. All Owners, if necessary, shall install dry culverts between the road rights-of-way and their lots in conformity with specifications and recommendations of the Committee.

M. Utility Services. No utility services shall be installed under finished streets except by jacking, drilling or boring unless specifically approved by the Developer.

N. Wells and Septic Tanks. No water wells shall be drilled on any of the lots nor shall any septic tanks be installed on any of the lots in the Development, without the approval of the Committee.

6. EAST HARBOUR DEVELOPMENT CONTROL COMMITTEE.

A. Powers of Committee.

(1) Generally. No dwelling, building structure or improvement of any type or kind shall be constructed or placed on any lot in the Development without the prior approval of the Committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the lot and the location of the improvement proposed to be constructed or placed upon the lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of 1" = 10', or to such other scale as the Committee may require.

There shall also be submitted, where applicable, the permits or reports required under paragraph 3 of these Restrictions. All such plot plans shall be prepared by either a registered land surveyor, engineer or architect.

(ii) Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

(aa) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these restrictions;

(bb) The design or color scheme of a proposed improvement is not in harmony with the general surroundings of the lot or with adjacent buildings or structures;

(cc) The proposed improvement, or any part thereof, would in the opinion of the Committee be contrary to the interests, welfare or rights of all or any part of other Owners.

(iii) Power to Grant Variances. The Committee may allow reasonable variances or adjustments of these Restrictions where literal application would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of these Restrictions and no variance or adjustment shall be granted which is materially detrimental or injurious to other lots in the Development.

3. Review of Committee. The Committee shall approve or disapprove proposed improvements within 30 days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons.

4. Liability of Committee. Neither the Committee nor any agent thereof, nor the Developer, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

5. Piers, Boat Docks, and Boathouses. When the Committee shall permit the construction or placing of a structure wholly or partly within Morse Reservoir, such permit shall constitute a license, and only a license, from the Indianapolis Water Company and the Developer or its successors in title to Morse Reservoir, and said structure must have the prior approval of the Committee.

6. Inspection. The Committee may inspect work being performed with its permission to insure compliance with these Restrictions and applicable regulations.

7. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER.

Whenever two or more contiguous lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said lots as a site for a single dwelling house, he shall apply in writing to the Committee for permission to so use said lots. If permission for such a use shall be granted, the lots constituting the site for such single dwelling house shall be treated as a single lot for the purpose of applying these Restrictions to said lots, and all of the lots remain thereon with the single dwelling house.

8. USE OF THE RESERVOIR.

BOOK 159 PAGE 174

A. All operation of boats upon Morse Reservoir is pursuant to a license that shall be exercised in accordance with the limitations made by the joint committee of the Developer and the Indianapolis Water Company made according to the procedures set out in the License Agreement recorded in Book 121, Instrument No. 4863, in the Office of the Recorder of Hamilton County, Indiana. That committee shall have the power to assess fines for the violation of any limitations on boat traffic on Morse Reservoir in accordance with the schedule of fines promulgated by it, and which shall become a charge upon the lot owned by the person against whom the fine is assessed.

B. Any fine so assessed against any lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that lot until paid in full, and shall also be a personal obligation of the Owner or Owners of that lot. Such charge shall bear interest at the rate of 6% per annum until paid in full. If, in the opinion of the Developer, such charge has remained due and payable for an unreasonably long period of time, the Developer may, institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing in any court of competent jurisdiction. The Owner of the lot or lots subject to the charge, shall, in addition to the amount of the charge at the time legal action is instituted, be obliged to pay any expense or costs, including attorneys' fees, incurred by the Developer in collecting the same. Every Owner of a lot in the Development and any person who may acquire any interest in such lot, whether as an Owner or otherwise, is hereby notified, and by acquisition of such interest agrees, that any such liens which may exist upon said lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an Owner of a lot in the Development is hereby notified, that by the act of acquiring, making such purchase or acquiring such title, such person shall be conclusively held to have covenanted to pay the Developer all fines that shall be made pursuant to this paragraph 8 of the Restrictions.

9. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including the Developer or Indianapolis Water Company (with respect to activities that affect Morse Reservoir), may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither the Developer nor Indianapolis Water Company shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

B. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

10. EFFECT OF BECOMING AN OWNER.

The Owners of any lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from the Developer or a subsequent Owner of such lot, shall accept such



deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of the Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with the Developer and to and with the Owners and subsequent owners of each of the lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

11. TITLES.

The underlined titles preceding the various paragraphs and subparagraphs 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.

12. DURATION.

The foregoing covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until July 1, 2000 at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those persons who are then the Owners of a majority of the numbered lots in the Development, or Indianapolis Water Company with regard to its Morse Reservoir.

13. SEVERABILITY.

Every one of the Restrictions is hereby declared to be independent of, and severable from the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions.

Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

IN TESTIMONY WHEREOF, witness the signature of the Declarant this 6th day of November, 19 79.

THE SHOREWOOD CORPORATION

By Stanley E. Hunt  
Stanley E. Hunt, President

ATTEST:

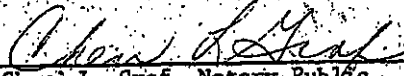
Philip M. Klinger  
Philip M. Klinger, Secretary

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF HAMILTON )

BOOK 159 PAGE 176

Before me, a Notary Public in and for said County and State, personally appeared Stanley E. Hunt and Philip W. Klinger, the President and Secretary respectively of The Shorewood Corporation, and acknowledged the execution of the foregoing Declaration of Restrictions for and on behalf of that corporation.

Witness my hand and seal this 6th day of November, 1979.

  
Cheri L. Graf, Notary Public

My Commission Expires May 30, 1980

This instrument was prepared by Hayes T. O'Brien, attorney at law.

Part of the Southeast Quarter of Section 23, Township 19 North, Range 4 East in Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of the said Southeast Quarter Section; thence South 00 degrees 01 minute 10 seconds West along the East line of the said Southeast Quarter Section 320.00 feet; thence South 90 degrees 00 minutes 00 seconds West 75.71 feet to a curve having a radius of 650.31 feet, the radius point of which bears North 00 degrees 00 minutes 00 seconds; thence Northwesterly along the said curve 402.62 feet to a point which bears South 35 degrees 28 minutes 22 seconds West from the said radius point; thence North 54 degrees 31 minutes 38 seconds West 200.03 feet to a curve having a radius of 598.18 feet, the radius point of which bears South 35 degrees 28 minutes 22 seconds West; thence Westerly along the said curve 854.21 feet to a point on the Easterly line of "Parcel 18" as described in deed of conveyance to The Shorewood Corporation, recorded October 22, 1970, in Deed Record 239, pages 247 through 266 in the Office of the Recorder of Hamilton County, Indiana, said point bears North 46 degrees 20 minutes 47 seconds West from the said radius point and which point is the Place of Beginning. (the next seven described lines are along the easterly line of the said "Parcel 18" which easterly line is a perpendicular distance of 50 feet Northwest of the center line of a levee on the East side of Morse Reservoir, which levee is known as the East Embankment); thence South 43 degrees 39 minutes 13 seconds West 367.50 feet to a curve having a radius of 803.03 feet, the radius point of which bears South 46 degrees 29 minutes 47 seconds East; thence Southwesterly along the said curve 158.59 feet to a point which bears North 57 degrees 39 minutes 27 seconds West from the said radius point; thence South 32 degrees 20 minutes 33 seconds West 297.25 feet to a curve having a radius of 830.64 feet, the radius point of which bears South 57 degrees 39 minutes 27 seconds East; thence Southwesterly along the said curve 135.61 feet to a point which bears North 67 degrees 00 minutes 00 seconds West from the said radius point; thence South 22 degrees 59 minutes 19 seconds West 448.03 feet to a curve having a radius of 480.53 feet, the radius point of which bears North 67 degrees 00 minutes 41 seconds West; thence Southwesterly along the said curve 197.19 feet to a point which bears South 43 degrees 30 minutes 00 seconds East from the said radius point; thence South 46 degrees 30 minutes 00 seconds West 299.13 feet to the Eastern most corner of the 9.1 acre parcel of land conveyed to Hamilton County Park and Recreation Board, as set out in deed recorded April 11, 1973, in Deed Record 261, pages 81-84 in the said Recorder's Office; thence North 37 degrees 30 minutes 00 seconds West along the Northeasterly line of the said 9.1 acre parcel, 340 feet, more or less, to the shore line of Morse Reservoir, as said shore line would have been established December 30, 1960, plus accretion and minus erosion (with the water level thereof at an elevation of 810.0 feet above mean sea level); thence Northeasterly along the meandering of said shoreline to a point on the aforesaid Easterly line of said Parcel 18 which bears North 43 degrees 39 minutes 13 seconds East from the place of beginning, said point lies approximately 930 feet West of the East line of the said Northeast Quarter Section and approximately 330 feet North of the South line of the said Northeast

BOOK 159 PAGE 178

Quarter Section and said point being a perpendicular distance of 50 feet Northwest of the said center line of said East Embankment, thence South 43 degrees 39 minutes 13 seconds West (parallel with said center line) 675 feet, more or less to the place of beginning, containing 30 acres, more or less.

This Instrument Recorded Jan. 7 1979  
MARY L. CLARK, RECORDER, HAMILTON COUNTY, IND.

7 1 15 PM '79  
MARY L. CLARK  
RECORDER  
HAMILTON COUNTY, IND.

COPY

Instrument  
9909924796

1999

AMENDMENT TO THE DECLARATION OF  
RESTRICTIONS AND PROTECTIVE COVENANTS  
OF THE  
EAST HARBOUR DEVELOPMENT PROJECT

These Amendments to the Declaration of Restrictions of East Harbour Development Project were executed this 20<sup>th</sup> day of April, 1999 and recorded as Instrument No. 9924796

by the Owners this 26<sup>th</sup> day of April 1999.

WITNESS THAT:

9909924796  
Filed for Record in  
HAMILTON COUNTY, INDIANA  
MARY L CLARK  
On 04-26-1999 At 10:09:19 am.  
AMEND DECL 123.00

Whereas, the original Declaration of Restrictions of East Harbour Development Project was recorded by the Developer in the Hamilton County Court House as Instrument No. 1419, Misc. Book 159, Page 167-178 on the 6th day of November 1979, hereafter referred to as the 1979 Declaration and/or the Restrictions, and/or the Protective Covenants;

Whereas, a Supplement to the 1979 Declaration of Restrictions forming the East Harbour Property Owners Association was adopted and recorded in the Hamilton County Court House as Instrument No. 41231, Misc. Book 171, pages 848-858 on the 14<sup>th</sup> day of December 1982, hereafter referred to as the 1982 Supplement and;

Whereas, the Owners of the Numbered Lots desire to make certain Amendments to the 1979 Declaration and to the provisions of the 1982 Supplement to comply with Indiana Code Statutes Act of 1991 for Non-Profit Community Associations; and to reaffirm, rewrite, clarify, and strengthen the provisions of the Declaration and the provisions of the Supplement, and to include

and assimilate the provisions of the Supplement as amended into and within this 1999 Declaration of Restrictions under Article II, East Harbour Property Owners Association.

Whereas, Paragraph 12 of the 1979 Declaration and Section 12 of the 1982 Supplement both provide that the same may be amended upon the approval by a Majority of the Owners of the Numbered Lots in the Development, and;

Whereas, after notice was duly given, a Special Meeting of the Owners was held on April 20, 1999, whereat 45 Owners comprising (82%) eighty-two percent of the total Percentage Vote of (55) fifty five numbered Lots of the East Harbour Development were present, either in person or by proxy and;

Whereas, at said Special Meeting, the Owners of 44 numbered Lots comprising (80%) eighty percent of the total Percentage Vote within the East Harbour Development voted to approve the following Amendments to the Declaration and to the Supplement and rewrite the Declaration hereto incorporating the Supplement into and within the Declaration of 1999;

Whereas, said Owners, voting to approve the following Amendments constitute a Majority of the Owners and;

Whereas, said Owners, under the authority of the Declaration and under the authority of the Supplement, hereby make certain changes and Amendments to the Declaration and to the Supplement and to rewrite the Declaration hereto incorporating the Supplement into and within the Declaration of 1999.

Now, therefore, the undersigned Officer of the East Harbour Property Owners Association, on behalf of the Owners and the Association by authority of the Directors and of the Majority Of The Owners, hereby executes these Amendments to the Supplement and the Declaration of 1979 and rewrite the Declaration for the East Harbour Development Project as follows:

# TABLE OF CONTENTS

CUSTOM TAILORED AND UNIQUE

OWNING A PIECE OF EAST HARBOUR

## ARTICLE I. Declarations, Covenants, Restrictions

Section 1.	Definitions.....	Page 8
Section 2.	Character of the Development.....	10
A.	Residential	
B.	Residential Lakeside Lifestyle	
C.	Accessory Outbuildings Prohibited	
D.	Occupancy of Partial Home Prohibited	
E.	Restrictions, Easements, Limitations	
F.	Zachary's Law--Registration of Offenders	
Section 3.	Size, Placement, Maintenance.....	12
A.	Minimum Square Footage	
B.	Setback Requirements	
C.	Fences Prohibited	
D.	Exteriors and Roofs	
E.	Heating Plants, Detectors, and Garages,	
F.	Individual Yard Lights In Lieu	
G.	Time Diligence of Construction Projects	
H.	Prohibition of Prefab or Used Materials	
I.	Maintenance	
J.	Association/Developer Maintenance Rights	
K.	Mailboxes	
L.	Driveways and Yards	
M.	Exterior Chimneys	
N.	Landscaping, Shrubs and Trees	
O.	Rear Yard Frontage Integrity	
Section 4.	Sanitary Waste.....	21

<b>Section 5.</b>	<b>General Prohibitions.....</b>	<b>21</b>
A.	Activities and Odors	
B.	Signs	
C.	Animals.....	<b>22</b>
D.	Parking on Lots	
E.	Parking on Streets	
F.	Garbage, Trash	
G.	Trash Cans & Fuel Tanks	
H.	Use of Dwellings.....	<b>25</b>
I.	Temporary Structures, Tents and Camping	
J.	Docks and Piers	
K.	Beaches, Ramps, Sea Walls	
L.	Ditches and Swales	
M.	Utility Services	
N.	Wells and Septic Tanks	
O.	Satellite Dishes, Antennas, Solar Panels, Equip.	
P.	Swimming Pools	
Q.	Garage Sales	
R.	In-Home Businesses-Offices.....	<b>28</b>
S.	Sioux Circle Cove and Cherokee Bay	
T.	Lots Abutting Sioux Circle Cove	
U.	Firewood	
<b>Section 6.</b>	<b>Building Committee.....</b>	<b>31</b>
A.	Powers	
B.	Time Duties	
C.	Obligations	
D.	Defective Plans, Specifications	
E.	Approvals and Licenses	
F.	Inspections	
G.	Composition	
H.	Proceeding Without Approval	
I.	Appeal Process	
<b>Section 7.</b>	<b>Association Remedies and Relief.....</b>	<b>36</b>
<b>Section 8.</b>	<b>Acceptance by Becoming an Owner.....</b>	<b>36</b>



Section 9.	Contiguous Lots.....	37
Section 10.	Reservoir/Liens.....	37

**ARTICLE II. Property Owners Association**

Section 1.	Creation.....	39
A.	Formation and Type	
B.	Recognition and Acceptance	
C.	Duties	
D.	Liquidation	
Section 2.	Membership in the Association.....	40
A.	Membership	
B.	Voting	
C.	Type of Ownership	
D.	Class of Ownership	
E.	Suspension of a Member	
Section 3.	Dues and Assessments.....	41
A.	Obligation of Assessments	
B.	Purpose of Assessments	
C.	Approval for Expenditures	
D.	Annual Dues Assessments	
E.	Commencement of Dues	
F.	Non-Payment of Assessments	
G.	Subordination of Lien	
H.	Records of the Treasury	
Section 4.	Meetings of the Association.....	45
A.	Meetings	
B.	Written Notice	
C.	Notice of Meetings	
D.	Waivers of Notice	
E.	Quorum	
F.	Action Without A Meeting	
G.	Attendance by Technology	

<b>Section 5.</b>	<b>Officers and Directors.....</b>	<b>47</b>
<b>A.</b>	<b>Conduct</b>	
<b>B.</b>	<b>Terms of Office</b>	
<b>C.</b>	<b>Removal By The Members</b>	
<b>D.</b>	<b>Removal By The Board</b>	
<b>E.</b>	<b>Expense Indemnity</b>	
<b>F.</b>	<b>Lending Prohibited</b>	
<b>G.</b>	<b>Notice of Board Meeting</b>	
<b>Section 6.</b>	<b>Regarding the Association By-Laws.....</b>	<b>49</b>

**ARTICLE III.      Miscellaneous**

<b>Section 1.</b>	<b>Disputes.....</b>	<b>49</b>
<b>Section 2.</b>	<b>Use of Titles, Gender, Definitions and Form</b>	
<b>Section 3.</b>	<b>Duration</b>	
<b>Section 4.</b>	<b>Provisions Separable</b>	
<b>Section 5.</b>	<b>Interpretation.....</b>	<b>51</b>
<b>Section 6.</b>	<b>Precedent</b>	
<b>Section 7.</b>	<b>Harassment</b>	
<b>Section 8.</b>	<b>Abatement</b>	
<b>Section 9.</b>	<b>Weight, Severity and Expediency</b>	
<b>Section 10.</b>	<b>Legal Corrections.....</b>	<b>52</b>
<b>Section 11.</b>	<b>Geographic Location</b>	
<b>Section 12.</b>	<b>Advent of New Technology</b>	
<b>Section 13.</b>	<b>Conflict With the By-Laws</b>	
<b>ATTACHMENT:</b>	<b>Noblesville Ordinance Re: Home Occupation</b>	

## CUSTOM TAILORED AND UNIQUE

Welcome to our Neighborhood. You will find pleasure knowing that the East Harbour Community in which you have invested is extremely Unique. East Harbour is one of only a few Single Entrance residential neighborhoods anywhere in which every Lot is a Lakefront Property that affords Water Access, a Country Club Atmosphere and Unobstructed Panoramic Views of a beautiful Reservoir to every Owner-Member. Different from most neighborhoods there are no alleys, detached garages, storage sheds, fences, dumpsters, garbage trucks, electrical lines and right-of-ways that service East Harbour homes from the Rear. Considering these multiple reasons, the homes of East Harbour literally do not have "traditional" backyards. The Lakeside Country Club Lifestyle will provide you with the pride, luxury, and pleasure of enjoying two "Front Yards," one being in front of your home and the most important being behind your home "fronting" Morse Reservoir. Therefore, the Unobstructed Shoreline Views, the Water Access, the Fence Free Park-Like-Setting, the Integrity of the Rear Frontage and the Resort Waterfront Lifestyle normally associated with Expensive Lakeside Properties are the major components that must be collectively preserved by all Owner/Members to maintain the attractive property values that have long prevailed along with our Country Club Atmosphere. These and other attributes demand that the Protective Covenants of East Harbour be "Custom Tailored and Unique" from those of all other neighborhoods, and be uniformly adhered to for the enjoyment, health, safety, privacy, property values and Mutual Benefit of every Owner/Member. Therefore, we the present Homeowners hereby dedicate and declare that the Protective Covenants hereto have been so updated, clarified, strengthened, tailored and adopted by the East Harbour Owner/Members for the sole purpose of preserving the Individuality, Uniqueness, Unobstructed Views, Safety, Property Values and the Fence Free Country Club Setting of Your East Harbour Residential Community. Welcome to Your new Home.

## OWNING A PIECE OF EAST HARBOUR

Your home is forever within and a intricate part of the East Harbour Development as recorded in the Hamilton County Court House and no transfer of Ownership, or otherwise, shall sever or disconnect your Lot from this Development. By taking possession of your East Harbour home on Morse Reservoir, you are acknowledging the rights and powers of the East Harbour Association and the Indianapolis Water Company. You are automatically a dues paying member in the Association and a guardian of a one/fifty-fifth (1/55) undivided interest in the East Harbour common areas, treasury, entrance sign, Country Club Atmosphere and the Fence Free Park-Like-Setting. By acceptance of your deed, you have agreed to be subject to the Restrictions and the Association By-Laws of East Harbour. These Restrictions and By-Laws must be upheld to protect and preserve these tangible and intangible assets. For the protection of your investment, all 55 Owners and Lots in the East Harbour Development are legally bound to comply with, and be governed by, these Restrictions and By-Laws for the Mutual Benefit of all. (See Art. I Sec. 8 Acceptance By Becoming An Owner & Art. II Sec. 1B Recognition and Acceptance)

### Article I. Declarations, Covenants, Restrictions

#### Section 1. Definitions.

- A. "Approvals" Approvals, permission, or consents required herein shall be deemed given only when provided in writing and signed by the Majority of the Board of Directors. All requests shall be submitted in writing on the proper request form.
- B. "Association By-Laws" A written and adopted document describing the authoritative structure, and the operating rules, regulations, processes, procedures and guidelines for the Association, Officers, and Board of Directors.
- C. "Beauty" Beauty may indeed be in the eyes of the beholder, but the Authority to preserve property values has been bestowed into the hands of the Board of Directors.

D. "Committee" The East Harbour Building Control Committee composed of the Board of Directors.

E. "Common Sense" The ability to think through a situation by a prudent adult in a calm rational state of mind considering all pertinent facts and arriving at a logical and fair conclusion. The Board of Directors in their Interpretation of the Intent and the enforcement or non-enforcement of each Restriction and/or violation shall include the use of "Common Sense."

F. "Declaration, Covenants, and Restrictions" A document or set of documents of binding provisions recorded at the Hamilton County Court House that run with the land that each Owner and subsequent Owner mutually and individually Declare and Covenant to abide by and to be governed by for the health, safety, and Mutual Benefit of all, as well as for the preservation of property values, the Fence-Free Park-Like Setting, each Owners Unobstructed Panoramic View and the Country Club Atmosphere.

G. "Developer/Association" All numbered Lots in the Development have been sold by the Developer, therefore all references to and the Rights of the Developer, shall refer to and become the Rights of the Association.

H. "Intent" The implication that could be reasonably concluded by any rational prudent adult possessing Common Sense. The "Interpretation and Intent" of each Restriction shall be a real and existing concept as if stated in writing herein and recognized and upheld by all courts of law. The Interpretation of "the Intent" shall apply to every provision herein. Interpretation of the Provisions and the Intent thereof may be different from time to time as determined solely by the Board. (See Art. III Sec. 5 Interpretation)

I. "Lot" Any parcel of real estate described by one of the plats of the Development which is recorded in the Office of the Recorder of Hamilton County, Indiana.

J. "Owners" Owners shall mean a person, corporation, or trustee who has acquired any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons, businesses, trusts or corporations having such interest merely as security for the performance of an obligation.

K. "Precedent" Any variance, permission, or approval previously granted/disapproved or any previous failure to enforce or revocation of approval.

L. "Supplement" The 1982 document written and recorded as an addition to the original Declaration of Restrictions of 1978 authorizing the formation of the Association and the adoption of the By-Laws that outline and govern the operation of the Association. The 1982 Supplement has been amended, restated and absorbed into and within the Declaration of 1999.

M. "Unobstructed Panoramic View" The maximum possible degree of uninhibited observation of the opposite shorelines from an Owners dwelling that comprises a major component of the high value of a lakeside property, a Fence-Free Park-Like-Setting and a Country Club Atmosphere. The "Intent" herein of "Unobstructed Panoramic View" as interpreted from time to time shall be a real and existing concept as if a tangible Good-Will item and shall be recognized and upheld by all courts of law. The concept of "Intent of Unobstructed Panoramic View" shall apply to every provision herein. Interpretation of the Covenants and the Intent thereof shall be solely as determined by the Board. The Views and Rear Setback Lines shall be protected and enforced.

## Section 2. Character and Personality of East Harbour.

A. Residential. Every numbered Lot in the Development is a residential Lot and shall be used exclusively for single-family residential purposes. No structure shall be erected, placed, altered or permitted to remain upon any said residential Lot except a single-family dwelling house substantially stick built on-site of quality materials and workmanship equal to or better than the average of those existing dwellings with a minimum two (2) car attached or built-in garage. All dwellings, improvements, remodeling, and/or rehabilitation shall meet or exceed the Architectural Standards as determined from time to time by the Board of Directors. (See Art. I Sec. 5H Use of Dwellings, & 5R In-Home Businesses, & Sec. 3H Used and Prefab Material & Sec. 3E Heating Plants & Garages & 3B Setback Lines)

**B. Residential Lakeside Lifestyle.** Each and every Owner by acceptance of his deed to a Lot and every occupant by taking occupancy covenants to assist in the development of a quiet, peaceful and safe environment of residential Country Club Atmosphere relatively free from business activity, disturbances, and the invasion or reduction of a normal level of expected residential privacy. Each Owner by acceptance of the deed, or occupant by taking occupancy, or visitor by visiting agrees and covenants to assist in the promotion of the Country Club Atmosphere and a Fence-Free Park-Like Setting for the Mutual Benefit of all Owners and occupants within the East Harbour Development. Each Owner by investing in the East Harbour Residential Development is entitled to the safety and protection of values and the expected residential lakeside lifestyle and privacy provided by these Restrictions, Association By-Laws, Amendments and Supplements thereto. (See Art. I Sec. 8 Acceptance By Becoming An Owner & Art. II Sec. 1B Recognition and Acceptance)

**C. Accessory Outbuildings Prohibited.** No accessory outbuildings, boathouses, prefabs, modular, sheds, permanent playhouses, animal shelters, cages, carports, or detached garages or similar item shall be moved to or erected on any Lot within the Development. Violations shall be abated to preserve property values, the Park-like Setting, and each Owners Unobstructed Panoramic View of the Reservoir. (See Art. I Sec. 5C Animals)

**D. Occupancy or Residential Use of a Partially Completed Dwelling House Prohibited.** No dwelling house constructed on any residential Lot shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed, remodeling finished, or damage restored. The determination of whether the house shall have been substantially completed, restored or remodeled shall be made by the Board of Directors and such decision shall be binding on all parties.

**E. Restrictions, Easements, and Limitations.** All tracts of ground in the Development shall be subject to the easements,

restrictions and limitations of record between the Indianapolis Water Company and the Developer, recorded in Book 121, Instrument No. 4862 in the Office of the Recorder of Hamilton County, Indiana, and also to all governmental zoning authorities and Federal, State, County, and City of Noblesville regulations and ordinances affecting the Development, all of which are incorporated herein by reference or inference.

F. Zachary's Law & Registration of Known Offenders. For the safety, protection, and well being of the children of East Harbour Development, all known offenders whom by law or court order are required to notify and/or register their address and location with the courts, probation officer, and/or any agency of any kind for any reason shall also register with the Board of Directors prior to or no later than (1) one day after taking occupancy within the East Harbour Development.

Section 3. Restrictions Concerning Size, Placement, and Maintenance.

A. Minimum Living Space Areas. The minimum square footage of living space of dwellings constructed on any residential Lot in the Development, exclusive of porches, terraces, garages, decks or basements shall be 1800 square feet.

B. Residential Setback Requirements.

(1) In General. Unless otherwise provided in these Restrictions or on the recorded plat, no dwelling, structure, or improvement of any kind shall be constructed or placed on any residential Lot in the Development except as provided for herein without the express written approval from the Board of Directors. Architectural Requests which are in compliance of the setback requirements as established by the Board for that Lot shall not be "guaranteed" the approval of such Request. The "Intent" of these Setback Provisions are to (a) preserve and protect the Unobstructed Panoramic Views of Other Owners while (b) allowing some, although limited, flexibility to each Owner in the alteration of a dwelling, deck, patio or other improvement. (See Art. I Sec. 6H Proceeding Without Approval)



(2) Side Line. Side Line shall mean the Lot boundary line that extends from the road on which a Lot abuts to the Rear line of said Lot. Rear line/Shore line shall mean the Lot boundary line that is farthest from, and substantially parallel to, the road on which the Lot abuts, except that on corner Lots, it may be determined from either abutting road.

(3) Front Yard Setback. The front building setback lines shall be the designated number of feet from the right-of-way of the road upon which the Lot abuts as set forth upon the plats of the Development.

(4) Side Yard Setback. The side yard set-back lines shall not be less than 8 feet from the side line of the Lot on one side and the total of both side yards shall be not less than 20% of the entire width of the Lot.

(5) Rear Yard Setback. For any new Architectural Requests submitted after March 1, 1999 the rear set-back line shall be at least 50 feet from the rear line for most long Main-Body Lots, and the rear set-back line shall be at least 35 feet for most short Lots, including but not limited to, Lots abutting Sioux Circle Cove. Every Lot in East Harbour abuts to a curving Morse Reservoir Shoreline and every Lot and Side Line is of a different depth, therefore, the Board of Directors, for reasons of "Common Sense," an uneven shoreline, Geographic Location and Unobstructed Panoramic Views, shall determine that the location of the building line adjacent to the Reservoir may be otherwise for each individual Lot. A single Rear Setback Line per Lot does not adequately serve the "Intent" of the Restrictions therefore Multiple Rear Setback Lines shall be used; one setback line for dwellings, another for decks, another for steps and rails, and yet another for other improvements. The establishing or approval of any Setback Line on a Lot for a stated project or improvement shall not establish or imply the approval of the same Setback Line for a different project or improvement on that Lot or any other Lot. (See Unobstructed Views & Intent & Common Sense & Preamble For Unique Covenants & Sec. 2-E Easements & Sec. 3-O Backyard Integrity & Sec. 5-T Dwellings Abutting Sioux Circle Cove & Art. III Sec. 11 Geographic Location

B. Fences Prohibited. In order to preserve the aesthetic Fence Free Park-Like Setting and Unobstructed Panoramic Views within the Development, any Owner or occupant, before any above ground improvements are installed, must have requested and received a variance from the Board as to size, placement, height, color, composition, location, gate location and date of removal. A fence variance shall be considered only when in rare situations the granting of such a variance, due to the geographic location of the Lot and/or contour of the side or rear of the dwelling, will not undermine the Fence Free Intent of these Protective Covenants. Small enclosed areas for animal bladder relief, when approved, shall be properly landscaped to minimize their appearance, however such an area shall not be used for outdoor animal living quarters. Fencing shall be prohibited (1) for the purpose of creating or encircling a recreational area for children or adults (2) to restrict the movement of people or the Shoreline Views of any Owners (3) for the purpose of creating a substantially full-time outdoor living area for animals (4) in relationship to any In-Home Business (5) that would not end/connect to the Dwelling at two separate locations (6) that would run along or near a perimeter line/Shoreline (7) that would connect two dwellings (8) for the purpose of separating Lots (9) made of chain-link or lessor material. No previously approved fences on any other Lot shall be used or referred to as a Precedent by any Owner. Fencing variances, restrictions, approvals, disapprovals, limitations, maintenance, time allotments and removal shall be vigorously enforced. All variances or approvals regarding fences on an individual Lot shall terminate immediately upon the acceptance of the deed by new owner and may or may not be extended or renewed by the Board. Any Owner listing, advertising, selling or transferring of deed to a Lot with a fence hereby agrees to indicate in writing within any such listing, advertisement and/or contract that any and all fences and fence variances on that Lot are not included in the sale and that any and all fences on that Lot shall be removed prior to the transfer of the deed. Any new Owner by the acceptance of such deed hereby agrees to the removal, if not previously removed, of said fence within 60 days unless a new variance is applied for and approved by the Board. Approval may be denied. The installation

and continued use of a below ground invisible electric animal restriction fence shall not require approval and shall be exempt from this provision as long as there is no other violations of the Fence Free Intent or other provisions of these Restrictions. Patio Privacy Dividers shall be allowed when approved in writing by the Board provided there are no other violations of the Restrictions or the Intent thereof. (See Preamble For Unique Covenants & Intent & Art. I Sec. 5C Animals & Sec. 5P Pools & Sec. 5T Lots Abutting Sioux Circle Cove & Sec. 5R In-Home Businesses & Art. III Sec. 11 Geographic Location)

D. Exterior Construction and Roofs. For the continued aesthetic beauty of the Development and to maintain the Unobstructed Panoramic Views, any changes in construction or configuration of a dwelling or change of color, hue, pattern, scheme and/or finish to the roof or exterior of a dwelling, dock, boatlift, mailbox, driveway, playground equipment or any improvement must be approved in advance by the Board and unpalatable colors; hue or finishes shall be unapproved and/or abated. For the continued aesthetic beauty of the Development and to maintain property values the use of aluminum siding, vinyl siding, and/or any similar material without the express prior written approval of the Board is prohibited and shall be abated. The Intent: Beauty may indeed be in the eyes of the beholder, but the Authority to preserve property values has been bestowed into the hands of the Board of Directors. (See Art. I Sec. 6A Powers of the Board)

E. Heating Plants, Garages, and Detectors. Every dwelling in the development must contain a heating plant capable of providing adequate heat for year-round human habitation and (1) one fully functional smoke detector on each floor level, both installed in compliance with the required codes. LP gas storage tanks for heating are prohibited and shall be abated. Every house in the Development must continuously have an attached or built-in functional garage with a minimum two-car capacity and a minimum two-car capacity functional garage door or two single-car doors. No Owner shall convert or allow to be converted, any garage space into living space or otherwise, unless additional

minimum allowable garage space has been approved in writing by the Board and has been completed. The clear Intent of this provision is that every Dwelling possess the physical appearance and capability of out of site storage of trash cans and the option of inside overnight parking for a minimum of two vehicles and/or the storage of watercraft, trailers, cycles, toys, lawn maintenance tools, ladders, dog houses, trash, building materials or other items normally associated with a garage. The quality of replacement garage door panels shall meet or exceed the Architectural Standards as set forth by the Board of Directors. Detached garages, outbuildings, storage sheds, outhouses, and boathouses are prohibited in East Harbour and shall be abated. (See Uninhibited Panoramic View)

F. Individual Yard Lights Required In Lieu Of Streetlights. At the time that each Owner in the Development completes the construction of a Dwelling, or by acceptance of the deed, each Owner shall install and/or cause to remain a permanent working dusk to dawn yard light in the Front Yard of said Lot. The design, height, type, color and location of the yard light shall be subject to the approval of the Board of Directors. For the safety, welfare and Mutual Benefit of the Owners and occupants, all dusk to dawn yard lights, once installed, must be on an electric eye or timer and must be satisfactorily illuminated nightly from dusk to dawn in lieu of street lights. Compliance to install shall be at the discretion of each Owner/Member until July 1, 2000.

G. Time Diligence in Construction. Every dwelling whose construction or re-construction on any residential Lot in the Development has begun shall be completed within nine (9) months after the beginning of such construction. No improvement which has substantially deteriorated or been partially or totally destroyed by fire, smoke, wind, or otherwise shall be allowed to remain in such state for more than a maximum three (3) month period from the time of such destruction, damage or notification of non-compliance. Exterior remodeling, rehabilitation, or maintenance projects shall be completed within a reasonable time period. Construction materials, trailers, and containers shall not be allowed to remain

on a Lot for longer than a reasonable time period consistent with the project.

H. Prohibition of Prefabricated or Used Structures. All improvements constructed or placed on any numbered Lot in the Development shall be constructed with substantially all new materials that meet or exceed the Architectural Standards as described in the By-Laws from time to time, and no used improvements or material shall be located, relocated or placed on any such Lot. Each dwelling, rebuild, or addition, and/or any remodeling and/or rehabilitation thereto shall be substantially stick built on site constructed with substantially all new materials that meet or exceed the Architectural Standards as described in the By-Laws from time to time, and no used improvements or material and no substantially prefabricated room(s) section, house trailer, travel trailer, camping trailer, double-wide, addition, mobile home, motor home, modular or similar construction shall be placed, located or relocated on any such Lot in the East Harbour Development. Injunctions, fines and/or any other remedies available to the Association shall be immediately implemented at the expense of the Owner-Member in noncompliance without liability to the Officers, Directors, agents and the Association. Each dwelling and improvement shall at all times meet the Architectural Standards as set forth by the Board of Directors.

I. Maintenance of Lots and Improvements. The Owner of any Lot in the Development shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from emitting odors or becoming unsightly or unsafe; and each such Owner shall:

(1) Mow the Lot and maintain the landscaping at such times as may be reasonably required in order to prevent the unsightly or unsafe growth of vegetation, noxious weeds or grass.

(2) Remove all debris and rubbish, and waste.

(3) Prevent the existence of any such condition that reasonably tends to detract from or diminish safety or the aesthetic appearance of the Development.

(4) Cut down and remove dead trees.

(5) Where applicable, prevent debris or foreign material from entering Morse Reservoir, or, when any such debris has entered Morse Reservoir from any source, remove the same immediately.

(6) Keep the exterior of all improvements in a state of repair and/or maintenance as to avoid their becoming unsightly, unsafe, or having a negative affect on the Lot or property values within the Development.

(7) All tools, trash containers, equipment, watercraft when not docked or on a lift, trailers, and materials such as lawn mowers, bicycles, trash, art and toys shall be stored so as not to be visible from the streets, Reservoir, Levee, Park or other Lots in the Development.

(8) Owners of corner Lots shall limit obstructions, improvements and/or maintain landscaping on or near street intersections in such a manner as to leave unimpeded a safe line of sight for merging traffic.

J. Developer's Rights/Association Rights. In the event that the Owner of any Lot in the Development shall fail to maintain his Lot and any improvements situated thereon, the Association, after following procedures outlined in the By-Laws providing an opportunity to cure, shall have the Right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and repair, mow, remove, trim, paint, stain, clean or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon conform to the requirements of these Restrictions. All costs incurred by the Association, including labor and materials, shall be collected from the Owner/Member in noncompliance or shall become a lien upon said Lot. Neither the Association nor its Officers, Directors, agents, employees, or contractors shall be liable for any damages or loss of revenues or workman's compensation claim that may result from entry, maintenance or work performed hereunder. Since the Developer has now sold all the Lots in the Development, all the Rights of and references to the Developer have transferred to and have become the Rights of, and the references to, the Association.

K. Mailboxes. Uniform mailboxes shall be utilized for the beautification of the neighborhood and the enhancement of property values. Any new Owner accepting deed after April 20, 1999 shall within 90 days of acceptance of the deed, if not already installed, install and leave installed, a uniform mailbox as described in the By-Laws. The existing installed mailbox of any deeded Owner prior to April 20, 1999 is grandfathered from this provisions until such time that a new Owner accepts deed to said Lot, or the exempt owner installs a uniform mailbox voluntarily.

L. Driveways and Yards. Driveways shall be constructed of concrete, asphalt, or similar hard surface material. No driveway or parking area shall be constructed of gravel, dirt, loose stone, or grass. All driveways shall be maintained so as not to detract from the overall value or appearance of the Development. All Yards shall substantially consist of live grass and no Lot shall be substantially covered with sand, stone, concrete, artificial turf, asphalt, dead grass or mud. All yards shall be maintained so as not to detract from the overall value or appearance of the Development.

M. Chimneys. All exterior chimneys shall be finished and/or faced and no unfinished concrete block, metal, or pipe chimneys of any kind shall be allowed.

N. Landscaping, Shrubs and Trees. In order to preserve the aesthetic Fence Free Park-like appearance, Country Club Atmosphere and Unobstructed Panoramic Views within the Development, any Owner or occupant, before any major landscaping, shrubs, trees or above ground improvements are installed, must have requested and received prior written approval from the Board of Directors as to size, placement, height, color, composition, location. Any plant, shrub or tree growth which has developed into a major obstruction of Panoramic Views shall be trimmed or removed so as not to obstruct the Panoramic Views of other Owners. Owners of corner Lots shall not allow landscaping to obstruct a safe line-of-sight of approaching vehicles. At times, it may become necessary to push snow from the street onto the non-driveway portion of

any Owners Lot. All Owners, by acceptance of the deed, hereby give unretractable permission to the Association, Board, and its agents for such actions without liability.

O. Rear Yard Frontage Integrity. The Rear Yards of East Harbor Homes are extremely Unique. East Harbor is one in which every Lot resembles a Lakefront Resort property that affords Water Access and Unobstructed Views of the Reservoir to every Owner/Member. Different from most neighborhoods there are no alleys, detached garages, barns, storage sheds, boat houses, forests, streams, corn fields, other homes, fences, dumpsters, electrical lines and right-of-ways that abut East Harbor Dwellings from the Rear. For these reasons, the homes of East Harbor do not have traditional "private and/or enclosed back-yards" in the conventional meaning of the word. The Lakeside Country Club Lifestyle will provide the pride, luxury and pleasure of enjoying two "front-yards," one being in front of your home and the most important being behind your home "fronting" the float-by traffic on Morse Reservoir. While automobiles are admiring these Dwellings from the front, boats are admiring the Rear-Frontage of the Dwellings from the Lake. Therefore, animals, cages, shelters, fences, pools, sheds, playground equipment, room additions, setback lines, decks, patios, parked vehicles and watercraft, trailers, trash cans, building materials, maintenance, proper landscaping, lack of "Common Sense" and an appreciation for the neighbors Unobstructed Panoramic View must collectively and separately require Provisions which address these issues. The Unobstructed Shoreline Views, Water Access, Fence Free Park-Like-Setting and Resort Lifestyle normally associated with Expensive Lakeside Properties are the major components that must be collectively preserved by all Owner/Members to maintain the attractive property values and Rear Yard Integrity that have long prevailed along with our Country Club Atmosphere. These and other attributes demand that the Protective Covenants of East Harbor be "Custom Tailored and Unique" from those of all other neighborhoods, and be uniformly adhered to and enforced for the enjoyment, health, safety, privacy, property values and Mutual Benefit of every Owner/Member and his or her investment. (See Intent & Unobstructed Views &



Common Sense & Preamble For Unique Covenants &  
Sec. 3B(5) Rear Yard Setback Requirements & Sec. 3C.  
Fences Prohibited & Sec. 5C Animals & Sec. 5T Dwellings  
Abutting Sioux Circle Cove & Sec. 5P Pools & Sec. 5-O  
Satellite Dishes and Playground Equipment & Sec. 8  
Acceptance By Becoming An Owner & Art. III Sec. 11  
Geographic Location

Section 4. Disposal of Sanitary Waste.

A. Outside Toilets. No outside toilet shall be permitted in the Development (temporary self-contained toilets may be approved by the Board during periods of damage restoration and/or remodeling), however at no time shall any sanitary waste or other wastes shall be permitted to enter or remain in Morse Reservoir, nor any street, ditch, drain, levee, Lot or common area.

B. Construction of Sewage Lines. All sanitary sewage lines on the residential building Lots shall be designed and constructed in accordance with the provisions and requirements of the Hamilton County Board of Health. Copies of all permits, plans, and designs relating to the construction of a sanitary sewer service line shall be submitted in duplicate to the Committee at the time of the submission of all other plans or documents required for the obtaining a building permit to install from the County. (See Art. I. Sec. 5N Wells and Septic Tanks)

Section 5. General Prohibitions.

A. Activities and Odors. No noxious or offensive odors or activities, nor loud and disruptive noises shall be permitted on any Lot in the Development, nor shall anything be done on any Lot that is or shall become an unreasonable annoyance, nuisance or cause loss of privacy to any Owner or occupant of another Lot in the Development in the opinion of the Board of Directors. Lawnmowers, chainsaws, musical instruments, radios, bands, speakers, construction and other loud equipment or loud noises of any kind shall not be operated or heard outdoors from dusk to

dawn. Outdoor Holiday decorations shall be exhibited only during the holiday period and shall not create a nuisance or excessive traffic to the neighborhood. (See Intent & Beauty & Art. I Sec. 2B Residential Lifestyle)

B. Signs. No signs or advertisements shall be displayed or placed on any Lot or structure in the Development except a normal residential real estate "FOR SALE" or "FOR LEASE" sign. Security alarm signs of the appropriate size shall be permitted. No vehicle, boat, cycle, trailer, watercraft, motor home, truck, or any other item shall be displayed for sale or rent without the prior written approval of the Board of Directors.

C. Animals. No animals shall be kept or maintained in any Dwelling within the Development except the usual safe, indoor household pets, and, in such case, such household pets shall be kept reasonably confined so, as not to present a nuisance, unsightly yard, odor, excessive noise, barking or danger or threat of danger to the children or adults of the neighborhood. Animals shall be under the control and supervision of their Owner at all times and no animal shall be allowed to roam freely unattended or live substantially outdoors within East Harbor. Each Owner shall be held fully liable for the damages, medical expenses, and any actions of their animal and shall be held fully responsible for the excrement of his animal whether or not on the Lot of the Owner or any other Lot, Common Area, Park, or Levee. "Reasonably confined" does not imply that above ground fences or enclosures will be approved nor shall animals be allowed to live substantially caged, chained or connected outdoors to a stake, tree, post, pole or other similar item. Underground electronic animal control fences are encouraged and installation shall not require prior approval from the Board. Animals shall be properly cared for and shall not be abused nor neglected. Dogs shall be limited to three (except when birthing) per household unless express written approval is granted by the Board. Cats and other household pets shall be limited to five (except when birthing) per household unless express written approval is granted by the Board, however fish, ant farms, gerbils, and hamsters, rabbits and other small indoor animals will not be limited as long as

there is no violation of the Intent of this provision and are caged indoors. Outdoor animal kennels shall not be permitted. No live animal of any kind shall be kept on any Lot for nourishment, profit or loss, intimidation, experimentation, torture, breeding, fighting, hunting, racing, grazing, wool, milk, cheese, venom, leather, fur, eggs, fertilizer or any other product or provision provided by an animal. Absolutely no animal normally associated with or normally kept on a farm or within a zoo, nor any wild nor dangerous animal shall be kept within the Development. The "Intent" of this Provision is to allow each Owner some flexibility in the selection of the type or breed of animal desired while protecting the privacy, odor and noise free, safety, Lakeside Country Club Lifestyle and Fence Free Park-Like-Setting for the other Owners. "Common Sense" should be a major factor in the number, type and breed of animal selected by any Owner while secondary factors including size, aggressive nature of the breed, indoor living, Noblesville Animal Ordinances, Fence-Free-Setting and being a "good neighbor" should also be considered. Unusually large animals such as Saint Bernard's or animals trained to attack and/or aggressive breeds such as Pitbulls perceived or known to present a danger to children, adults and other pets, should not be kept in close quarter residential neighborhoods within City Limits such as East Harbour and shall not be allowed without the express written permission of the Board. Permission may be denied. The Board, any Officer, Director or agent thereof shall have the authority to enter upon any Lot to feed, water, administer aid, provide temporary shelter, warmth, comfort or to remove from harms way any animal which in the opinion of the Board has become in dire need of such protection, and shall do so without liability. The Board of Directors after following procedures outlined in the By-Laws allowing for an opportunity to cure, shall have the authority to impose fines, seek injunctive relief, begin legal proceedings, or notify the Police, Animal Control, Game Wardens, Veterinarians or Animal Society without liability to the Association for damages, expenses or loss of revenues at the expense of the Owner-Member in noncompliance. ( See Intent & Common Sense & Beauty & Art. I Sec. 3-I Maintenance & Sec. 2-C Outbuildings Prohibited & Sec. 5-A

Activities and Odors & Sec. 3-C Fences Prohibited & Sec. 3-0 Rear Frontage Yards & Sec. 5R In-Home Business)

D. Vehicle and Watercraft Parking on a Lot. No camper, large truck, cycle, trailer, watercraft, or similar object shall be parked or stored outdoors overnight on any Lot or Common Area in the Development. Temporary parking of watercraft and watercraft trailers shall be permitted, on driveways only, during seasonal/storage transition or emergency maintenance. No vehicles of any kind, watercraft, or trailers shall be continuously parked on a Lot off of the driveway. Watercraft may be stored or docked on or over the Reservoir. Boatlifts and/or docks shall not be permanently stored on any land or Lot in the Development. Using "Common Sense" the Board of Directors, after following the procedures as outlined in the By-Laws allowing for an opportunity to cure the noncompliance, shall have the authority free from liability of any damages and expenses, to impose fines or to have removed from the Development any repeated and uncured violations and any abandoned, unlicensed, unsightly and/or inoperable vehicles, trailers, watercraft or similar items at the expense of the Owner-Member in noncompliance. (See Common Sense - Intent).

E. No Vehicles or Watercraft Parking on Streets. No automobiles, trucks, campers, construction containers, trailers, boats, or other similar vehicles shall be parked on any street, common area, levee, or grass in the Development. Temporary vehicle parking in the streets during meetings, parties, reunions, remodeling, and restoration shall be permitted when necessary. The Board of Directors, after following the procedures outlined in the By-Laws allowing for the opportunity to cure, shall have the authority free from liability of any damages and expenses, to impose fines, or to have removed from the Development any repeated and uncured violations and any abandoned, unlicensed, unsightly or inoperable vehicles or obstructions at the expense of the Owner-Member in noncompliance. (See Common Sense - Intent)

F. Garbage, Trash, and Other Refuse. No Owner of a Lot in the Development shall burn or permit the burning of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation of such refuse on his or her Lot except as may be permitted in paragraph G below. All houses built in the Development shall be equipped at all times with and maintain a fully functional and properly installed electric garbage disposal unit inside the dwelling.

G. Storage Tanks and Trash Receptacles. Every tank for the storage of fuel that is installed outside any building in the Development shall be buried below the surface of the ground. Every receptacle for ashes, trash, rubbish, or garbage shall be so placed and kept as not to be visible from the street, park, Reservoir, or levee at anytime, except at the times when refuse collections are being made. Trash placed for collection shall legally remain the private personal domain and property of the occupant until such time collection is made by the City Sanitation Department. The Board of Directors, after following procedures outlined in the By-Laws allowing for the opportunity to cure, shall have the authority to impose fines, or to have removed any uncured and repeated violations free from liability of any damages at the expense of the Owner-Member in noncompliance. At any such time that multiple trash collection companies offer service to East Harbor, the Board shall in the best interest of the neighborhood select one Provider and all Owners/occupants shall subscribe to the service of that Provider.

H. Use of Dwelling/Lot. No Owner of any Lot in the Development shall use or allow the Lot to be used; or build, alter or use any dwelling upon said Lot as but not limited to; a model home, exhibit house, fraternity or sorority house, communal house, nursing home, adult or child care facility, clinic, counseling center, boarding house, half-way house, corporate retreat house, restaurant, club house, drug house, short term vacation rental property, multi-family dwelling, day care center, child care center, church, kennel, brothel, hotel, office building, kindergarten, school (except occupant in-home schooling), or continuous meeting facility or business. The absence of an

exchange of consideration shall have no effect on the interpretation, Intent and/or enforcement of this or any other provision of the Restrictions. (See Art. 1 Sec. 5R In-Home Business/Office & Sec. 2A and B Character-Residential/Residential Lakeside Lifestyle)

I. Temporary Structures and Camping. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any Lot nor shall any overnight camping be permitted on any Lot or common area. Short term tents for the purpose of party shelters or children overnight play purposes are permissible.

J. Dock and Pier. No pier, dock, or other structure may be constructed in such a manner that any portion thereof extends more than a normal and necessary distance from the shoreline into Morse Reservoir and in no event, for aesthetic and safety reasons, shall any pier, dock, or other structure be erected that does not conform to the specifications established and interpreted by the Board of Directors. No Owner shall construct, advertise or allow any dock or pier to be used as a public dock or pier, nor extend or rent dock space privileges or boat lift space to non-occupants to the extent of creating a nuisance or lack of privacy for other Owners in the opinion of the Board of Directors. No dock, pier, lift, watercraft or other similar object shall be allowed to block or substantially hinder the access to or the use of Sioux Circle Cove or the boat access channel in Cherokee Bay. (See Art. 1 Sec. 2D Water Co. License Agreement & Sec. 5T Dwellings Abutting Sioux Circle Cove)

K. Beaches, Boat Ramps, and Sea Walls. No beach or sea wall may be constructed on Morse Reservoir unless the plans and specifications are submitted to and approved by the Board of Directors at the same time plans are submitted by the Owner to the Department of Natural Resources and other applicable governmental agencies. Beaches shall be constructed of sand only, which shall not extend farther than 20 feet from the shoreline into a Rear Yard. The Indianapolis Water Company and the Declarations prohibit any installation of a boat ramp from within the Development into Morse Reservoir. No spoil materials

shall be placed or allowed to collect in Morse Reservoir. No Owner shall allow his or her beach or waterfront to be used as a public beach to the extent of creating a nuisance or lack of privacy for other Owners.

L. Ditches and Swales. It shall be the duty of every Owner of every Lot in the Development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his or her Lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this paragraph. All Owners, if necessary, shall install dry culverts between the road rights-of-way and their Lots in conformity with specifications and recommendations of the Board of Directors.

M. Utility Services. No utility services shall be installed under finished streets except by jacking, drilling or boring unless specifically approved by the Board of Directors. Outdoor LP gas storage tanks other than for outdoor grills are prohibited.

N. Wells and Septic Tanks. No wet or dry wells, mounds or holes shall be drilled, dug or placed on any of the Lots nor shall any septic tanks or septic fields be installed on any of the Lots in the Development, without prior written approval of the Board of Directors. Outhouses are prohibited. Temporary waste facilities shall be permitted during damage restoration or remodeling.

O. Satellite Dishes, Antennas, and Solar Panels and Playground Equipment. Satellite dishes, antennas, solar panels and playground equipment require prior written approval from the Board. Approval may be denied. With the advent of satellite technology any satellite dish 18 inches or smaller in diameter may be considered for approval. Dishes larger than 18 inches in diameter will not be approved. Installations shall be limited to the side and rear of the Dwelling when effective. Adequate landscaping should be incorporated to minimized appearance when appropriate. Size, color, composition, exterior location and

location of any auxiliary antennas must be included in the request. Antennas shall be located inside the attic when possible. Large satellite dishes are prohibited and shall be abated. Playground equipment, swings, slides and ladders when approved shall be restricted to Rear Yards and shall be located and/or landscaped so as to minimize their appearance from the street. Playground equipment should be removed when no longer being used or when becoming an eyesore. Basketball goals may be approved over driveways. All above ground improvements must be located as to preserve all Owners Unobstructed Panoramic Views.

P. Pools. No above ground pool or similar objects other than children's small, temporary, rubber or plastic wading pools, shall be placed or erected on any Lot or Common Area within the Development. An Owner must request and receive approval from the Board prior to the installation of any permanent in-ground pool regarding size, location, landscaping, equipment and safety barriers. Any in-ground pool shall be equipped with a properly installed lockable and functional electric safety pool cover, an in-water alarm system, and a minimum of (1) one functional motion detector flood light/internal alarm system within the pool area. Pool heaters, pumps, filtration systems and other attachments and accessory's shall be so located and landscaped to minimizing their appearance. The installation of an in-ground pool does not guarantee the approval of an above ground fence. (See Art. I Sec. 6G Proceeding Without Written Approval/Allowing Time to Process & Sec. 3C Fences Prohibited)

Q. Garage Sales. Garage sales shall last no more than three continuous days and shall be limited to one per Lot per year unless approved by the Board.

R. In-Home Office/Business. Certain in-home office and business uses may be approved when in the opinion of the Board such office or business does not violate the Intent of the Restrictions governing commercial business in the East Harbour Residential Development and does not create a nuisance or lack of privacy to the neighbors. The clear "Intent" of the In-Home



Office/Business provision is to protect the Owners and the Development from the adverse impacts and activities usually associated with In-Home occupations while permitting Owners and occupants of East Harbour extended options in the use of a limited amount of living space in their home as a place of livelihood and the production or supplementing of personal and family income, while at the same time establishing preliminary criteria and standards for requesting appropriate consideration for approval. Any Variances or Approvals may be revoked at any time when, in the opinion of the Board, such Business/Office activities have escalated beyond the scope and Intent of these Restrictions and/or the In-Home Occupation Ordinances of the City of Noblesville. To be eligible for approval consideration from the Board, any In-Home occupation request must first meet the requirements necessary to qualify for the obtaining of such a permit from the Director Of Planning and Development for the City of Noblesville as prescribed in Sec. 1 through 5 of The Unified Development Ordinance for the City of Noblesville Article 9 Part C Home Occupations Sections 1-5, however the obtaining of such permit from the Director or any city, county, state, or federal agency does not over-ride, undermine or waive these Restrictions nor constitute, imply or guarantee approval from the Board of Directors. Prior to the granting of an Approval or Variance or at anytime congruent with the term of such Approval or Variance, the Board may, when deemed in the best interest of the neighborhood, require the actual obtaining or renewal of a In-Home Occupation Permit from the City of Noblesville. The exchange of consideration, or absence thereof, shall have no effect on the Intent, Interpretation or enforcement of this or any other Restriction. On-sight employees, traffic generated, parking, disturbances, disruptions, noise, odors, activities, use of chemicals or solvents, fencing requirements, Geographic Location and invasion of residential Lakeside Lifestyle privacy of other Owners shall be major considerations in the approval, revocation, or disapproval of such an office or business. No advertising, signs or products shall be displayed within the Development. No vehicles with visible or audible advertising shall be allowed to be parked in such a way as to serve as a billboard within the Development. Day Care Centers, Adult or Child Care Centers,

kennels, animal grooming and any business catering to the daily care of people, animals, or property on premises, or delivery of people, animals, watercraft, or vehicles of non-owners to a Lot in the Development for daily keeping, lodging, maintenance, cleaning or care are prohibited and will be immediately abated. The Board of Directors after following procedures outlined in the By-Laws allowing for an opportunity to cure, shall have the authority to impose fines, seek injunctive relief, or begin legal proceedings without liability to the Association for damages, expenses or loss of revenues at the expense of the Owner-Member in noncompliance. The Unified Development Ordinance for the City of Noblesville Article 9 Part C Home Occupations Sections 1-5 is and shall be included within and be a part of this provision. Should the provisions of the City Ordinance and these Restrictions conflict, the Interpretation and the Intent of these Restrictions shall prevail. One man "paper/computer" In-Home Offices are exempt from applying for prior approval and a variance pursuant to this provision provided all other requirements of this and other provisions and the In-Home Occupational Ordinance of the City of Noblesville are in compliance and only a minimum acceptable amount of traffic is generated. (See Art. 1 Sec. 2A Residential Character & Sec. 5H Use of Dwelling Sec. 2B Residential Lifestyle & Article III Sec. 1B Reimbursement of Caused Expenses to the Association & Sec. 3-O Rear Frontage Integrity & In-Home Occupation Ordinance of City of Noblesville as attached)

S. Sioux Circle Cove and Cherokee Bay. The coves abutting East Harbour Lots shall be kept unobstructed by the Owners of such Lots to allow said Owners watercraft access to and from the main body of the Reservoir. It shall not be the obligation of the Association to monitor, maintain, or dredge the depth of the water abutting any Lot in the Development. The coves shall be designated and governed as idle zones. (See Art. I Sec. 10 A-B Reservoir Licenses/Fines)

T. Dwellings Abutting Sioux Circle Cove. Due to the Back Yard Lakeside Lifestyle, the narrow width of the Cove, the close proximity of the Dwellings to the Shoreline, and Dwellings

abutting on both sides of the Cove, the Board, Building Committee, and the Owners or Occupants shall be acutely aware and sensitive to the increased environmental impact to other neighbors of any odors, actions, activities, noises, animals, playground equipment, decks, docks, lifts, firewood, improvements, setback requirements, room additions, landscaping, privacy partitions, clotheslines, pools, In-Home Businesses, maintenance or lack thereof. The Owners of these Lots are entitled to equal, if not greater, sensitivity under these Protective Covenants and the Committee/Board shall use diligence and "Common Sense" in the interpretation of these Restrictions and the "Intent" thereof under this provision. (See Unobstructed Views Art. I Sec. 10 Reservoir & Sec. 3-O Rear Yard Frontage Integrity & Sec. 3B-5 Rear Setback Requirements & Sec. 5C Animals & Sec. 5J Docks and Piers & Sec. 6C Building Committee Obligations & Art. III Sec 11 Geographic Location)

U. Firewood Stacks. No Owner/Occupant shall stack or allow to be stacked or accumulated cut or uncut firewood or similar objects in an amount to exceed (1) one Cord and shall not allow such objects to rot, become infested with mice, rodents, termites or animals of any kind, nor become a fire or safety hazard. Such stacks should be located so as not to be visible from the street and shall be landscaped to minimize appearance.

Section 6. East Harbour Development Control Committee.

A. Powers of the Committee/Board.

(1) In General. No dwelling, addition, deck, structure, mound, hole, in-ground pool or improvement of any kind shall be constructed or placed on any Lot in the Development without the prior written approval of the Board. Such approval shall be obtained only after the Owner of the Lot requesting authorization from the Board has made written application to the Board. Such written application shall be in the manner and form prescribed from time to time by the Board, and shall be accompanied by two complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot

survey plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Board may require or approve. All plans and drawings required to be submitted to the Board shall be drawn to a scale of 1 in. = 10 ft., or to such other scale as the Board may require. There shall also be submitted, where applicable, the permits or reports required under any Federal, State, County, or City laws, ordinances or zoning and specifically by these Declarations under Section 4 Paragraph B, Construction of Sewer Lines. All such Survey plot plans shall be prepared by either a registered land surveyor, engineer or architect. (See Intent & Common Sense & Art. I Sec. 6H Proceeding Without Approval)

(2) Powers of Disapproval. The Board may refuse to grant permission to construct, place, or make the requested improvement, when:

(a) Specifications. The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation or in conflict with any laws, ordinances, these Restrictions or the Intent thereof:

(b) Design and Color. The design, location, material or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot, Development or with adjacent dwellings or improvements; (See Beauty)

(c) Proposed Improvement. The proposed improvement, or any part thereof, would in the opinion of the Board be contrary to the interests, welfare, property values or rights of the Development, Association, or other Owners. The points listed herein need not be proved by the Board.

(3) Power to Grant Variances. The Board may allow a variance or grant Approval where literal application would result in unnecessary hardship or would not serve in the best interest of the Development or "Common Sense," but any such variance or Approval shall be granted in conformity with the general Intent

and purposes of these Restrictions and no variance or Approval shall be granted to these Restrictions which is materially detrimental or injurious to the property and property values of other Owners, the Unobstructed Panoramic Views, the Country Club Atmosphere or the Fence Free Park-Like Setting of the Development. The Committee as a group shall have sole authority of Interpretation and to approve, disapprove, arbitrate, litigate, compromise, and/or revoke variances and approvals previously granted and shall do so without liability. (See Art. III Sec. 11 Geographic Location)

(4) Power to Enforce

(a) Enforcement Of Restrictions. By purchase of a Lot, each Owner agrees that any violation of the Declaration of Restrictions shall be abated by the Indianapolis Water Company or the Association in any manner provided by law, injunctive relief, equity, assessments, fines and liens.

(b) Process and Procedures. Procedures for notification of non-compliance and the opportunity to cure prior to assessment of a fine or legal action shall be described in the By-Laws.

(c) Recovery of Expenses. The cost and expense of abatement and/or the enforcement of this or any other provision in the Declaration, Supplements, Amendments, or By-Laws shall include, but not be limited to, court costs and attorneys' fees and shall become a charge or lien upon the Lot of the Owner-Member not in compliance, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. (See Art. III Sec. 1B Recovery of Caused Expenses)

(d) Liability From Enforcement. Each Owner, subsequent Owner, tenant and or their representative by acceptance of the deed or taking occupancy hereby covenant, declare and agree that neither the Indianapolis Water Company nor the Association, nor any Officer, Director, agent, employee, or contractor while acting in a Official capacity thereof, shall be liable for any damage, expense, workmen's compensation claim or loss of revenues which may result from the enforcement of this or any other paragraph, section, provision, wording, or Intention contained in the Declaration, By-Laws and any Amendments or Supplements thereto.

**B. Time Duties of the Committee/Board.** Any Owner seeking approval shall allow the Board ample time to process said request. The lack of adequate time planning or a timing emergency on the part of the Owner-Member requesting approval shall not constitute an emergency on the part of the Committee. The Board shall attempt to approve or disapprove proposed improvements and requests within approximately 45 days (or less) after all required information shall have been properly submitted. The passing of 45 days without an approval or disapproval does not constitute approval. The Board for its permanent files shall retain one copy of submitted material. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons. (See Art. I Sec. 6H Proceeding Without Approval)

**C. Obligation of the Committee.** The Committee while exercising its duties shall fulfill its obligation: (1) to the Development and the Association by maintaining the integrity of the Restrictions, By-Laws, Supplements, or Amendment thereto; (2) to every Owner by protecting the Views, property values, privacy, safety, Rear-Frontage Integrity and Fence Free Park-Like Setting of each Owner for the Mutual Benefit of all; and (3) to each Owner-Member in noncompliance or requesting an approval-variance the fairness, prudence, expediency and due process as outlined in the By-Laws. (See Art. I Sec. 3-O Rear-Frontage Integrity & Sec. 5-T Dwellings Abutting Sioux Circle Cove & Art. III Sec. 11 Geographic Location)

**D. Defective Plans, Specifications, Materials.** Neither the Committee/Board nor any Officer, Director, Association or agent thereof, shall be responsible in any way for any defects in any plans, specifications, lists or other materials submitted to or requested by it, nor for any defects in any workmanship or material, code violations, nor for any expense, loss of revenues, or workman's-compensation claim, and shall not be included in nor be responsible for any legal proceedings or disputes between any Owner/occupant and contractor/employee.

E. Approval and Licensing. When the Board shall permit the construction or placing of a structure such as a pier, dock or lift wholly or partly within Morse Reservoir, such permit shall constitute a license, and only a license, from the Indianapolis Water Company and the Association or its successors in title to Morse Reservoir, and said structures must have the prior approval of the Board. Boathouses are prohibited and will be abated. (See Unobstructed Panoramic Views)

F. Inspection. The Board may inspect at any reasonable time the Dwelling, Lot, or work being performed to assure compliance with these Restrictions and the applicable regulations and provisions of any approvals, disapproval's or variances.

G. Composition. The composition of the Committee shall be the Board of Directors. (See Art. III Sec. 5 Interpretation)

H. Proceeding Without Written Approval. Any Owner seeking approval shall allow the Board ample time to process said request. The lack of adequate time planning on the part of the Owner-Member requesting approval shall not constitute an emergency on the part of the Committee. The Owner should not enter into any contract, agreement, or starting date, nor purchase or commit to the acceptance of any material until final approval has been received in writing from the Board. Any Owner in an effort to minimize unnecessary expense should seek "preliminary idea and location approval" prior to the professional preparation of costly Architectural Drawings. Preliminary approval shall not constitute final written Approval. Proceeding without prior written approval from the Board of Directors on a project stated or implied in the Restrictions may result in a fine, denial of request, injunctive relief and/or abatement free from liability to the Board or the Association. (See Art. I Sec. 6B Time Duties)

I. Appeal Process. Any Owner denied approval as requested shall be entitled to an appeal process as defined in the By-Laws. (See Art. III. Sec. A. The Process)

**Section 7. Association Remedies and Relief.**

A. **In General.** The Association to whose benefit these Restrictions inure, (or Indianapolis Water Company with respect to activities that affect Morse Reservoir) may proceed at law, including injunctive relief, or in equity; or by fines, individual assessments, late fees and interest to prevent the occurrence or continuation of any violation of these Restrictions, but neither the Indianapolis Water Company nor the Association, nor the Board nor any party to whose benefit these Restrictions inure shall be liable for damages, expenses or loss of revenues of any kind to any person, trust, partnership, or corporation for enforcing or for failing to enforce any of these Restrictions. No previous approval or disapproval given or revoked, or failure to enforce shall be construed or referred to as a Precedent by any Owner. (See Art. III Sec. 1 Disputes)

B. **Delay or Failure to Enforce.** No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party) to assert any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions. No delay or failure to enforce shall be construed or referred to as a Precedent by any Owner. (See Art. III Sec. 9 Weight, Expediency and Severity)

**Section 8. Acceptance By Becoming an Owner.** Each Lot is recorded in the Hamilton County Court House as being forever within and a part of the East Harbour Development and no such transfer of deed or Ownership shall sever, disconnect or disassociate such Lot from the Development, its Covenants, By-Laws, Rules, Regulations, Intent, Interpretation of the Board and Supplements or Amendments thereto. The Owner of each Lot is, by law, subject to these Restrictions, Intent, Interpretation of the Board, Supplements, Amendments, and By-Laws by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof from a previous Owner, and shall accept



such deed and execute such contract subject to each and every Restriction, Supplement, Declaration, Amendment, and By-Laws, and easements thereof. By acceptance of such deed or execution of such contract, the Owner or Purchaser/occupant acknowledges for themselves, their heirs, personal representatives, successors and assigns, the rights and powers of the Association with respect to these Restrictions, Supplements, Amendments and By-Laws and the Intent thereof, and the Indianapolis Water Company with respect to their Restrictions, recorded agreements and easements. Each Owner by acceptance of deed acknowledges membership in the Association and guardianship of a (1/55) one/fifty-fifth undivided, undeeded, unsellable interest in the East Harbour common areas, treasury, entrance sign, Country Club Atmosphere, Fence Free Park-Like-Setting, the Unobstructed Panoramic Views, Restrictions, By-Laws and the Intent thereof and hereby Covenants to uphold, protect and preserve these tangible and intangible assets for the Mutual Benefit of all. All such Owners/Purchasers/Occupants covenant, agree and consent with the Owners and subsequent Owners of each of the Lots affected by these Restrictions, Supplements, Amendments, and By-Laws, to keep, observe, comply with and be governed by such Restrictions, Declarations, Supplements, Amendments, By-Laws, Agreements and the Intent thereof. (See Art. II Sec. 1B Recognition and Acceptance)

Section 9. Rules Governing One Owner Contiguous Lots. Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single-dwelling house, he shall apply in writing to the Board for permission to so use said Lots. Permission may be denied. If permission for such a use shall be granted, the Lots constituting the site for such a single-dwelling house shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as the Lots remain improved with one "single-family dwelling house." Such an Owner shall be entitled to only one vote on any matter coming before the Association. Written approval under this provision does not alter, waive or negate any other provision within the Restrictions or By-Laws.

Section 10. Use of the Reservoir/Liens.

A. Licenses. All operation of watercraft upon Morse Reservoir is pursuant to a license that shall be exercised in accordance with the limitations made by the joint committee of the Association and the Indianapolis Water Company made according to the procedures set out in the License Agreement recorded in Book 121, Instrument No. 4863, in the Office of the Recorder of Hamilton County, Indiana. The committee or the Association shall have the power to assess fines for the violation of any of these limitations in accordance with the schedule of fines promulgated by it, and which shall become a charge upon the Owner/Member in noncompliance and the Lot owned by the Owner/Member against whom the fine is assessed.

B. Fines. Any fine so assessed against any Lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that Lot until paid in full, and shall also be a personal obligation of the Owner/Member of that Lot. Such charge shall bear interest at the rate of 1 1/2% compounded the first day of every month until paid in full. If, in the opinion of the Association, such charge has remained due and payable for an unreasonably long period of time, the Association may, institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing in any court of competent jurisdiction. The Owners of the Lot or Lots subject to the charge, shall, in addition to the amount of the charge at the time legal action is instituted, be obliged to pay any expense or costs, including attorneys' fees, incurred by the Association in collecting the same. Every Owner of a Lot in the Development and any person who may acquire any interest in such Lot, whether as an Owner or otherwise, is hereby notified, and by acquisition of such interest, does hereby covenant and agree, that any such liens which may exist upon said Lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an Owner of a Lot in the Development is hereby notified that by the act of acquiring, making such purchase or acquiring such title, shall be

conclusively held to have covenanted to pay the Association all fines that shall be made pursuant to this Section 10 and all other paragraphs, provisions, and sections of the Restrictions, By-Laws, and any Supplements or Amendments thereto. All references to, and authorities of the Developer shall now refer to and be the authorities of the Association.

## ARTICLE II. East Harbour Property Owners Association.

### Section 1. Creation of the Association.

A. Formation and Type. With the adoption of the 1982 Supplement, the Developer and The Original Declarants caused an unincorporated association to be formed known as the East Harbour Property Owners Association. This Association is a "Mutual Benefit Association." The Covenants and Restrictions set forth in the Declaration, Supplement Declaration and By-Laws and any Amendments thereto are for the safety, protection of values and the Mutual Benefit of all the present and future Owners.

B. Recognition and Acceptance. The Association has been formed, By-Laws have been written and approved, Officers and Directors have been elected, and the original Declarants and the Developer have forever bound themselves and all the subsequent Owners of the numbered Lots to recognize and accepted the East Harbour Property Owners Association as the legal entity empowered to enforce the Declaration of Restrictions, and the By-Laws, and to be governed by, thereof. (See Art. I Sec. 8 Acceptance By Becoming An Owner & Art. II. Sec. 6 By-Laws)

C. Duties. The Association will have among its other purposes and duties, maintaining the Entrance and Common areas, snow removal, paying maintenance bills, collecting dues and assessments, distributing the newsletter, and interpreting and enforcing the Restrictions and By-Laws for the safety, health, welfare, values, views and Mutual Benefit of the Owners.

D. Liquidation. In the event that the Association be dissolved, any remaining assets of the Association would be equally divided among the Owners. In the hypothetical event that the Association became incorporated, the assets of the Association would transfer to the Association Inc. thereto. If such a hypothetical Association Inc. would dissolve, the assets would be equally divided among the Owners unless prohibited by Internal Revenue Code 501 © (3).

Section 2. Membership in the Association.

A. Membership. Every person or entity who is shown of record to be an Owner of a fee interest in a Lot within East Harbour Development shall be a dues paying member of the Association (provided that any such person or entity who holds an interest merely as security for the performance of an obligation shall not be a member.)

B. Voting. When a Lot is owned by more than one person, all such persons shall be deemed members of the Association but shall be entitled to only one (1) vote per Lot on each matter coming before the Association.

C. Type of Ownership. When a Lot is owned by a corporation, business, or trust, the owner of such corporation, business or the trustees of the trust shall be deemed members. From time to time, Lot ownership may be hereinafter referred to in the singular but in such instances, the singular shall be interpreted so as to include the plural, joint, corporate, entity, or trust ownership and any reference to the masculine shall include the feminine.

D. Class of Ownership. There shall be one class of ownership and all Owners of a Lot in the Development shall be accorded equal weight of One Vote per Lot.

E. Membership Suspension. Rights and privileges of a member may be suspended only by a fair and reasonable

procedure, as outlined the By-Laws, carried out in good faith, which shall include written notice, cause, remedy, and the opportunity for said member to respond or cure prior to the suspension. Suspension of a member's rights and privileges in no way waives, alters, amends, exempts, or reduces that member from liability from dues, assessments, fines, violations, nor his responsibilities to the Association and Owners, nor the applicability, compliance, and jurisdiction under the Declaration, By-Laws, and/or any Supplements or Amendments thereof.

### Section 3. Dues and Assessments.

A. Creation of Lien and Personal Obligation of Assessments. Members of the Association hereby covenant and agree to pay to the Association annual, special, and covenant violation abatement assessments as may be fixed and established as warranted by the Board of Directors as provided herein and in the By-Laws. Any assessment, together with interest and late fees thereon and any costs of collection thereof as hereinafter provided, shall be a charge on the Lot of each member in arrears and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest and fees thereon and all costs of collection including all legal and court costs thereof as hereinafter provided, shall also be the personal obligation of each person, owner of a corporation, business or trustee of a trust who is an Owner of such Lot at the time when the assessment becomes due and shall follow and remain with the Lot and shall also become the personal obligation of any successor in title until the obligation, fees, and expenses are paid in full, whether or not a lien has been recorded at the Hamilton County Court House.

B. Purpose of Assessments. Assessments levied by the Association shall be used:

(1) For the promotion of recreation, health, safety, and welfare of the members and their families.

(2) For the performance of the duties and the exercise of the powers and authority of the Association as set forth in the Declaration, By-Laws, or any Supplement or Amendment thereof.

(3) For the payment of proper expenses and costs incurred by the Association in the performance of its duties.

(4) For the maintenance, repair, replacement, and purchases of property owned by the Association and other purposes and reserves deemed reasonable and prudent by the Board.

C. Approval for Expenditures. The Board of Directors of the Association shall have the right to make reasonable and normal expenditures for maintenance and upkeep of the areas under the responsibility of the Association, whether or not title is actually held by the Association, and the Association, by its Board of Directors, may incur reasonable expenditures for normal operation expenses for the Association. Expenditures for any other purpose, such as major capital improvements, must be approved by the Majority of the Vote Present.

D. Annual Dues Assessment.

(1) Calculation. The Annual Assessment shall be calculated annually by the Board and shall be due and payable each year on or before the first day of May of each year, however the month selected may be changed annually by a Majority Vote of the Directors when such a change is deemed necessary to avoid a mid-term budgetary assessment or for other reasons. The Annual Dues shall be payable and collectable from the deeded Owner of each Lot as of 12:01 A. M. on the annual date of May 1. Except as provided in sub-paragraph (B), the annual assessment shall presently be set at Fifty Dollars (\$50) per year (U.S. Currency).

(2) Annual Dues Increase. An Annual Dues Assessment increase, when approved by the Board of Directors, shall in no event exceed an amount equal to Ten Percent (10%) of the highest of previous Annual Assessments; however, the increase in the Annual Assessment may exceed Ten Percent (10%) if the Operating Budget has increased in excess of Ten Percent (10%), in which case such increase shall be sufficient to maintain the budget. At any time that more than sufficient balances and reserves exist, the Board of Directors shall have the authority to waive or diminish any Annual Dues Assessment as long as any such waiver or reduction for any given year is applied equally among the Owner-Members. After any such year of a waiver or

reduction, the Board shall have the authority to return the next Annual Dues Assessment to an amount necessary to meet the upcoming annual budget exempt from the (10%) ten percent previous year increase limitation described herein this provision.

E. Date of Commencement of Annual Dues Assessment. The date of commencement of the Annual Dues Assessment shall be May 1, 1982.

F. Non-Payment of Assessments, Dues and Fines. Any charge levied or assessed against any Lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that Lot until paid in full and shall also be a personal obligation of the Owner of that Lot at the time the charge fell due. Such charge shall bear interest at the rate of one and one half percent (1 1/2%) compounded the first day of every month until paid in full. If, in the opinion of the Board of Directors of the Association, such charge has remained due and payable for an unreasonably long period of time, the Board may, on behalf of the Association, institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing in any court of competent jurisdiction. The Owner of the Lot subject to the charge, in addition to the amount of the charge at the time legal action is instituted, shall be obliged to pay any expense or costs, including attorneys' fees, incurred by the Association in collecting the same. After being given the opportunity to cure, liens shall be filed immediately against any Lot in arrears known or presumed to be "For Sale" or thought to be preparing for a Transfer of Deed. Any Lot/Dwelling not presently listed "For Sale" may be allowed additional days to cure unpaid fines, dues, and assessments prior to the filing of a lien over any Lot listed "For Sale" or thought to be preparing for a Transfer of Deed. All liens recorded at the Hamilton County Court House and the removal of said lien shall be solely at the expense of the Owner of the Lot in noncompliance and/or arrears. For the protection of any purchaser, any Realtor and/or Real Estate Company having such a Lot listed "For Sale" shall be notified by Registered Mail of any unpaid assessment, lien or dues in arrears, all of which would become the obligation of the

new Owner. Failure on the part of the Association to notify such Realtor and/or Real Estate Company does not relieve the Lot from the unpaid dues, assessment, or fine in arrears. Every Owner of a Lot in the Development and any person who may acquire any interest in such Lot, whether as an Owner or otherwise, is hereby notified, and by acquisition of such interest agrees, that any such liens which may exist are valid liens and shall be paid. Every person who shall become an Owner of a Lot in the Development is hereby notified that by the act of acquiring, making such purchase or acquiring such title, shall be conclusively held to have covenanted to pay the Association all charges that the Association shall make or have made pursuant to these Restrictions, whether or not the assessment, dues, or fines have or have not been filed at the Hamilton County Courthouse.

The Association shall, upon demand, at any time, furnish a certificate in writing signed by an Officer of the Association that the Assessments on a specified Lot have been paid or that certain assessments against said Lot remain unpaid, as the case may be. The Board of Directors of the Association may make a reasonable charge for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid. (See Art. II Sec. 5 Conduct and Liability of Officers)

G. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien, whether or not such lien is, or is not, filed in the Hamilton County Courthouse. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof. The foreclosure of a superior mortgage or lien shall not relieve the Lot or Owner or any successor in title from liability for any assessment thereafter becoming due nor for the lien of any subsequent assessment.

H. Records of the Treasury. No individual Officer, Director, Treasurer, or any other individual shall have the authority to waive, reduce, increase, or ignore the payment or nonpayment of dues, assessments, or fines once imposed by the Board on any



Owner/Member or Lot in noncompliance. The Treasurer, or any Officer or Director deemed responsible for such violation shall be held personally liable for the loss, disappearance, gross fraud, or intentional mis-use of funds, or knowingly and intentional giving fraudulent or misleading statements regarding the Treasury or records of the Treasury, or the failure to timely report any nonpayment of outstanding dues, assessments or fines to the Board. After being given the opportunity to cure, liens shall be filed against the Lot of the offending Officer, Director or individual responsible for such loss sustained by the Association by Vote of the Majority of the Board to recover such loss of funds caused by the misconduct, misrepresentation or breach of duty.

The records, funds, checks, bank statements and accounts of the Treasury are the sole domain and property of the Association. The Treasurer and the financial records of the Association shall be under the direct supervision of the President/Co-Treasurer and the complete records shall be saved and made available by the Treasurer for inspection by the President/Co-Treasurer or the Board at any reasonable time upon request. The complete set of records of the treasury shall be present at each Association and/or Board meeting. Any member may request to inspect the records at any Association meeting. (See Art. II Sec. 5 Conduct of Officers and Directors & The East Harbour Association By-Laws--Duties, Obligations and Liabilities of the Treasurer)

#### Section 4. Meetings of the Association.

A. Meetings. In addition to the Annual Meeting of the Association, a Special, Quarterly, or Monthly meeting of the Owners may be called by the President, Board of Directors, or Owners comprising (10%) ten percent or more of the Association's active membership.

B. Written Notice. Written notices or reports which are delivered as part of a newsletter, update, annual dues notices, or handout or other publication constitutes official written notice or report as long as it is addressed or delivered to the members'

mailing address as shown in the Association's current mailing list of members, as provided to the Secretary by each member.

C. Notice of Meetings. Notice of a meeting must be sent to the members no less than ten (10) days prior to the meeting.

D. Waiver of Notice. Any member may waive notice either before or after the date and time of the meeting stated in the notice. Unless requested in writing to the Secretary stating a current mailing address, non-resident owners hereby waive notice of all meetings and newsletters.

E. Quorum. Unless a higher or lower percentage is provided for in the By-Laws (10%) ten percent of the votes entitled to be cast on the matter shall constitute a quorum. See Art. II Sec. 4G Attendance by Technology)

F. Action Without a Meeting. Unless prohibited or limited by the By-Laws, an action that may be taken at an Annual, Quarterly, or Special meeting of the members may be taken without a meeting if the Association mails or delivers a written ballot to every member entitled to vote. The written ballot must set forth the proposed action and provide for an opportunity to vote for or against the proposed action. Action required or permitted to be approved by the members may be taken without a meeting of the members if members holding at least (80%) of the votes entitled to be cast on the action approve the action.

G. Attendance by Technology. A member may participate in any meeting of the members, and a Director may participate in any meeting of the Board, by or through any means of communication by which all members participating, or all Directors participating in a Board meeting, may simultaneously hear each other during the meeting. A member, or Director, participating in a meeting by this means is considered to be Present at the meeting. (See Art II. Sec. 4E Quorum)

## Section 5. Officers and Directors.

A. Conduct. All Officers and Directors are required to act in good faith and with the care of an ordinarily prudent person acting in a manner believed to be in the best interest of the Association. An Officer or Director is not liable unless (1) the Officer or Director has breached or failed these duties and (2) such breach or failure constitutes willful misconduct, misrepresentation of facts, or recklessness. No individual Officer, Director, Treasurer, or any other individual shall have the authority to waive, reduce, increase, or ignore the payment or nonpayment of dues, assessment, or fines imposed by the Board of any Owner in noncompliance. The Treasurer, or any Officer or Director deemed responsible for such violation shall be held personally liable for the loss, disappearance, gross fraud, or intentional mis-use of funds, or knowingly and intentional giving fraudulent or misleading statements regarding the Treasury or records of the Treasury, or failing to timely report any nonpayment of outstanding dues, assessments or fines to the Board. After being given the opportunity to cure, liens shall be filed against the Lot of the offending Officer, Director or individual responsible for such loss sustained by the Association by Vote of the Majority of the Board to recover such loss of funds caused by the misconduct, misrepresentation or breach of duty. The records, funds, checks, bank statements and accounts of the Treasury are the sole domain and property of the Association. The Treasurer and the financial records of the Association shall be under the direct supervision of the Board of Directors and the complete records shall be saved and made available by the Treasurer for inspection by the President or the Board at any reasonable time upon request.

B. Term of Office. A Director will be elected or appointed for a term specified in the By-Laws, however the maximum single term for which a Director may be elected or appointed cannot exceed five (5) years. A Director may be elected or appointed for successive terms. An Officer will be elected, re-elected or

appointed for a term of one (1) year. An Officer may be elected, re-elected, or appointed for successive terms.

C. Removal By The Members. Members may remove an Officer or Director elected or appointed by the Members with or without cause. The Board of Directors may remove an Officer or Director elected or appointed by the Board of Directors with or without cause. (See Art. II. Sec. 5D Removal By The Board)

D. Removal By The Board. The Board of Directors may remove an Officer at any time with or without cause as specified in the By-Laws. (See Art II. Sec. 5 C Removal by the Members)

E. Legal Expense Indemnities.

(1) Party to a Suit. If an individual is made a party to a suit because he or she is or was an Officer or Director, the Association may indemnify the individual against liability incurred if (a) the individual's conduct was in good faith, and (b) the individual reasonably believed that his conduct was in the Association's best interest and (c) in the case of any criminal proceedings, the individual had reasonable cause to believe that his or her conduct was lawful, or had no reasonable cause to believe that his or her conduct was unlawful.

(2) Successful Defense. The Association must indemnify a Director or Officer who has been wholly successful in defense of a proceeding against the Director or Officer for reasonable expenses incurred, including attorney's fees.

(3) In Advance. The Association will pay for or reimburse the reasonable expenses including attorney's fees incurred by a Director or Officer who is a party to a proceeding in advance of a final disposition of the proceeding if certain conditions are satisfied as described in the By-Laws. A Director or Officer may apply to a court for an order directing the Association to indemnify the Director or Officer.

(4) Court Order. A Director or Officer may apply to a court for an order directing the Association to indemnify the Director or Officer.

F. Lending Prohibited. The Association can never lend money to or guarantee the obligation of a Director or Officer.

G. Notice of Meeting of the Directors. Unless otherwise provided for in the By-Laws, Regularly Scheduled Meetings of the Board of Directors, of which they already are aware, may be held without further notice to the Directors. Provided, however, notice of all Special Meetings of the Board must be delivered to each Director.

Section 6. Regarding the Association By-Laws. The East Harbour Property Owners Association, the Developer, the original Declarants, and all the subsequent Owners have written and adopted, either by signature or by acceptance of deed, a separate document of Association By-Laws. The By-Laws, in conjunction with the provisions of the Declaration, shall provide a comprehensive operational guideline for the elections, notifications, meetings, procedures, duties, conduct, dues computation, assessments, authoritative structure and the enforcement of Restrictions for the Officers, Board of Directors, and the membership of the Association. The By-Laws are subordinate and subject to all respects of the provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as in the By-Laws. In the event of any conflict between the By-Laws and the Declaration, the provisions of the Declaration shall control. (See Art. II. Sec. 1B Recognition and Acceptance & Art. I Sec. 8 Acceptance by Becoming An Owner)

### Article III. Miscellaneous Provisions.

#### Section 1. Disputes.

A. The Process. Owners by acceptance of deed agree to follow and abide by, the processes, procedures, rules, regulations and decisions of the Board as outlined in the By-Laws and The

Declaration and any Supplements or Amendments thereto. (See Art. 1 Sec. 6H Appeals Process)

B. Reimbursement of Caused Expenses. The Owner/Member in noncompliance or any Owner Plaintiff shall reimburse all reasonable expenses incurred by the Association, and/or the Officers, Directors, and Committeemen while acting in an official capacity for the Association, including but not limited to legal fees, court costs, loss of wages, arbitration fees, filing fees, and attorney fees in the pursuit of enforcement or defense of the Declaration and By-Laws or in the defense of the Association, any Officer, Director, or Member irregardless of the disposition, outcome, settlement, agreement, arbitration, and/or compromise. Liens shall be immediately filed as described in the By-Laws to recover said expenses.

Section 2. Titles, Gender, References, Form and Definitions. The underlined Titles, Definitions contained in Art. I Sec. I, By-Laws and the (SEE) reference lines each may be used as an aid in the Interpretation of the Intent of any provision of such Restriction. 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. Common Sense, Intent, and Interpretation, and Geographic Location shall apply to each Restriction herein.

Section 3. Duration. The foregoing Covenants and Restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until July 1, 2020 at which time said Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those persons who are then the Owners of a majority of the numbered Lots in the Development, or Indianapolis Water Company with regard to its Morse Reservoir. (See Art. III. Sec. 10 Legal Corrections)

Section 4. Provisions Separable. Every one of the Restrictions, Sections, Paragraphs, and Provisions are hereby

declared independent of, and separate from the rest of the Restrictions, and of and from every combination of Restrictions. Therefore, if any Restriction or a word or group of words shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or running quality of the remainder of that Restriction and all other Restrictions, Paragraphs, Sections and Provisions shall remain in full force and effect.

Section 5. Interpretation. All provisions, statements, words, phrases, paragraphs, and intentions, stated or implied in the Declaration, Supplement, Amendments, and By-Laws shall be as interpreted by and shall be solely in the opinion of the Board of Directors and the Interpretation and the Interpretation of the Intent shall be legally enforceable as if written herein. (See Beauty)

Section 6. Precedents. No previous action, variance, approval, failure to enforce shall be use or referred to as a precedent setting action by any Owner. All situations shall be judged based on its individual merits. (See Art. III Sec.11 Geographical Location)

Section 7. Harassment. The Association, the Board, or any Owner herein shall use no provision for the sole purpose of harassing another Owner. The provisions stated herein are for the protection and well being of the Owners and the Development. (See Common Sense - Intent)

Section 8. Abatement, Litigation, Arbitration, and Injunctions. The Board of Directors shall use fines, assessments, liens, litigation, arbitration, injunctive relief or any other reasonable legal means deemed necessary to enforce the Restrictions and shall do so without creating liability to the Association, the Board, the Officers, or themselves as Individuals.

Section 9. Weight Expediency, and Severity. Each Provision herein shall carry a separate weight, timeliness and severity as deemed prudent by the Board at the time and circumstances of

noncompliance or interpretation. The Board shall use prudent judgement and Common Sense in the determination on a case by case basis of the appropriate weight, timeliness and severity in the Intent and enforcement of each Restriction and violation thereof.

Section 10. Legal Corrections. Typographical errors, misspelled words, clarifications, legislated statues, or words judged to be contrary to law, or conflicting provisions within the Restrictions may be added, deleted, corrected, clarified or changed by a Majority of the Vote of the Board of Directors.

Section 11. Geographic Location. Owners hereby agree and understand that all Lots by their individual location, configuration, depth and width, Views, and the timing of any such situation may have different needs, set-back lines and applications not equally shared by other Owners. The Board of Directors may occasionally make decisions, allowances, variance approvals/disapproval's, set-back lines and/or appropriate funds for maintenance that may be more beneficial to certain Owners/Lots than others because of the placement of the dwelling, configuration, and/or the geographical location of such Lot within the neighborhood, or in cases where the strict adherence to the Protective Covenants would not serve in the best interest of "Common Sense." The granting of any approval or variance shall not be interpreted as an alteration or amendment of these Restrictions nor shall such variance, approval or disapproval be used as a Precedent example for other such similar requests. (See Art. I Sec. 5T Lots/Dwellings Abutting Sioux Circle Cove)

Section 12. Advent of New Technology. With the rapid advancement of emerging technology, it is anticipated that new and yet to be known communication products and other inventions shall, at some time in the future, present new and heretofore non-addressed issues and uncharted challenges to the Board of Directors. The Board shall have the authority to draft such new provisions as it should become necessary to address such issues and the Board shall have the authority to amend and



incorporate such provisions into the By-Laws and such provisions shall be enforceable. In that any issue, new or old, is not specifically addressed by a provision herein, such an absence in the Restrictions or By-Laws does not constitute approval.

Section 13. Conflict With The By-Laws. The By-Laws are subordinate and subject to all respects of the provisions of the Declaration. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as in the By-Laws. In the event of any conflict between the By-Laws and the Declaration, the provisions of the Declaration shall control.

IN TESTIMONY WHEREOF,  
witness the signature of the Officer this \_\_\_\_\_ day of  
\_\_\_\_\_, 1999.

East Harbour Property Owners Association

By \_\_\_\_\_  
Billy G. Hill, President

STATE OF INDIANA        )  
                                  )    ss:  
COUNTY OF HAMILTON    )

Before me, a Notary Public in and for said County and State,  
personally appeared Billy G. Hill, the President of East Harbour  
Property Owner's Association, and acknowledged the execution of  
the foregoing Declaration of Restrictions for and on Behalf of the  
East Harbour Property Owners Association.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Notary Public

My Commission Expires \_\_\_\_\_

**PART C. HOME OCCUPATIONS**

**Section 1. Intent**

Home occupations shall be a permitted use in all residential zoning districts except as otherwise restricted in this ordinance. The intent of these home occupation regulations is to:

- A. Protect residential areas from adverse impacts of activities associated with home occupations.
- B. Permit residents of the community a broad choice in the use of their homes as a place of livelihood and the production or supplementing of personal and family income.
- C. Establish criteria and development standards for home occupations conducted in dwelling units and accessory structures in residential zones.

**Section 2. General Requirements**

Home occupations require a permit from the Director of Planning and Development which is subject to the following restrictions.

- A. The primary use of the structure or dwelling unit shall remain residential, and the operator of the home occupation shall remain a resident in the dwelling unit.
- B. If the operator is a tenant, he or she shall provide a written letter from the property owner giving permission for the home occupation to be conducted on the property.
- C. The operator conducting the home occupation shall be the sole entrepreneur, and he shall not employ any other person other than a member of the immediate family residing on the premises.
- D. No structural additions, enlargements or exterior alterations changing the residential appearance to a business appearance shall be permitted.
- E. No more than twenty-five percent (25%) of the floor area of any one (1) story of the dwelling unit shall be devoted to such home occupation.
- F. Such home occupation shall be conducted entirely within the primary building or dwelling unit used as a residence. No home occupation shall be conducted in any accessory building.
- G. No additional and separate entrance incongruent with the residential structural design shall be constructed for the purpose of conducting the home occupation.
- H. No more traffic shall be generated by a home occupation than would normally be expected in a residential neighborhood.
- I. No provision for more than one (1) extra off-street parking space, other than the requirements and the permitted facilities of the zone district, shall be permitted. No part of a minimum required setback distance shall be used for off-street parking or loading facilities, and no additional driveway to serve such home occupations shall be permitted.
- J. No display of goods or external evidence of the home occupation shall be permitted, except for one non-animated, non-illuminated, non-flashing announcement plate, indicating not more than the name of the occupation and name and address of resident. Said plate shall be attached flat against the wall of the residence and shall not exceed one (1) square foot in total surface area.
- K. No stock in trade or commodities, other than those prepared, produced, or created on the premises by the operator of the home occupation, shall be kept or sold on the premises.

L. No electrical or mechanical equipment shall interfere with local radio communications and television reception, or cause fluctuation in line voltage off the premises.

**Section 3. Exempted Enterprises.**

Uses where the occupant utilizes a telephone or computer for "business" activity but does not receive customers or products shall be exempt from this classification as a business or home occupation, provided all of the other conditions of the one occupation are met.

**Section 4. Procedure**

**A. Application**

Application for a Home Occupation shall be filed with the Director of Planning and Development on a form provided by the Director. An applicant for a Home Occupation permit shall pay fees in connection with the submittal of the application in accordance with fee schedules adopted, from time to time, by the Common Council. The current fee schedule is found in Appendix A, "Fee Schedule." The Director of Planning and Development will make a decision and notify the applicant in writing fifteen (15) calendar days of the date the application is received.

**B. Scope**

In cases where the Department of Planning and Development considers the application not within the scope of the home occupation criteria, the application shall be denied.

**C. Time Limit**

All home-occupation permits shall be valid for a period of one (1) year from initial date of approval.

**D. Voiding of Permit**

The Department of Planning and Development may void any home occupation permit for non-compliance with the criteria set forth in this Part C. Revocation may take place at any time prior to the expiration date of the permit. If the permit is revoked, or is not renewed, it becomes null and void and said use shall be terminated.

**E. Appeal to the Board of Zoning Appeals**

The decision of the Department of Planning and Development concerning approval or revocation shall be final unless a written appeal is filed with the Board of Zoning Appeals within ten (10) calendar days of the decision. An appeal may only be filed by the applicant or persons residing within three hundred (300) feet of the subject property.

**F. Inspection**

Home occupation applicants shall permit a reasonable inspection of the premises by the Department of Planning and Development to determine compliance with these provisions. Home occupations shall be field checked annually by the Department of Planning and Development staff to determine compliance.

**G. Renewal**

Home occupation permits may be renewed annually provided there has not been any violation of the provisions of these provisions. Requests for renewals shall be submitted to the Department of Planning and Development in writing, accompanied by the prevailing renewal fee, one (1) month prior to expiration of the permit.

**Section 5. Prohibited Uses**

The following uses, by the nature of the investment or operation, have a pronounced tendency once started to rapidly increase beyond the limits permitted for home occupations and thereby

impair the use and value of a residentially zoned area for residential purposes. Therefore, the uses specified below shall not be permitted as home occupations:

- A. Medical Offices;
- B. Dental Offices, Law Offices and Real Estate Offices;
- C. Houses of Worship;
- D. Boarding Houses, Time Share Condominiums;
- E. Dance Studios;
- F. Automobile Repair (Major or Minor);
- G. Restaurants, Taverns;
- H. Private Clubs;
- L. Painting of Vehicles, Trailers, or Boats;
- J. Welding Shops.
- K. Hair Styling Salons with two (2) or more customer chairs.