

91013239

RESTRICTIVE COVENANTS

FOR

FAIRWAY LAKES, SECTION 1FRANKLIN, INDIANA

The undersigned, Fairway Lakes Development ("Developer"), is the owner of the real estate shown and described in Exhibit A, attached hereto and incorporated herein.

Such real estate is the same as that described in a certain Secondary Plat of Fairway Lakes, Section 1, an addition to the City of Franklin, Johnson County, State of Indiana (the "Subdivision"), which Plat is being recorded simultaneously with these Restrictive Covenants.

In order to afford adequate protection to all present and future owners of Lots and tracts in the Subdivision the Developer hereby adopts and establishes the following covenants for the benefit of each and every owner of any Lot or Lots in the subdivision.

1. The Subdivision contains 33 lots ("Lots"). Lots 3 through 27 and 49 through 54 are hereby reserved for only single-family residential use and are hereinafter referred to as "Residential Lots." Lots 1 and 2 are hereby reserved for business use and are hereinafter referred to as "Business Lots." The terms "Lot" or "Lots" shall include both Business and Residential Lots. Use of the terms "Residential Lot" or "Residential Lots" shall exclude all implications that Business Lots are to be included within the restrictive restriction or covenant. No Lot or Lots shall be further subdivided to create more building lots than hereby platted, but Lot lines may be altered by unanimous consent of the Lot owners and the Committee desires to use topography or easements or in the event a Lot owner desires to use more than one Lot for the construction of a single residence.
2. Single-family residences shall contain not fewer than 1,600 square feet of living area and the first story of any two-story structure shall contain not fewer than 1,200 square feet of living area. "Living area" shall not include garages, porches, walk-out basements, or building area more than four (4) feet below the adjacent grade level elevation.
3. Prior to the transfer of the ownership of any Lot, Developer will cause to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name "Fairway Lakes Homeowners Association, Inc." (referred to herein as the "Corporation"), for the purpose of ownership and management of all Common Areas, as designated on the Plat, to

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administer and enforce these Covenants, to perform all such duties as may be created under any other agreement to which the real estate may at any time be subject, and to establish procedures and rules for the efficient operation and enforcement of these Covenants.

4. In the event of a dispute or controversy involving a Lot owner as to any matter within or arising out of these Covenants, such dispute or controversy shall be submitted first to the Architectural Control Committee of the corporation (hereafter referred to as the "Committee"), the decision of which shall be in writing and shall be a condition precedent to any legal or equitable action or proceeding of any nature whatsoever.

5. Lots are subject to drainage easements, sewer easements, utility easements, and sidewalk easements, either separately or in any combination of the four as shown on the Plat, which are reserved for the use of Lot owners, public utility companies, and governmental agencies, as follows: (A) Drainage easements, and are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of the subdivision and adjoining ground and/or public drainage system; and it shall be the individual responsibility of each Lot owner to maintain the drainage across his or her Lot. Under no circumstance shall said easement be blocked in any manner by the construction or reconstruction of any improvement, nor shall any grading restrict, in any manner, the waterflow. said easement areas are subject to construction or reconstruction at any time by any governmental authority having jurisdiction over drains or by the Developer to any extent necessary to obtain adequate drainage. said easements are for the mutual use and benefit of the owners of all Lots and are a servitude upon such Lots for the benefit of the owners of all other land which shall be affected by such use. (B) Sewer easements (S.E.) are created for the use of the local governmental agency having jurisdiction over the storm and sanitary waste disposal system designated to serve the subdivision for the purpose of installation and maintenance of sewers that are a part of said system. (C) Utility easements (U.E.) are created for the use of public utility companies, not including transportation companies, for the installation, maintenance, repair, and replacement of main, ducts, poles, lines, wires, meters, and meter boxes. All such easements include the right of reasonable ingress and egress for the exercise of the reasonable rights of such utility providers, including reading the meters. No structure, including fences, shall be built on any drainage, sewer, or utility easement. (D) Sidewalk easements (S.W.E.) are created on all cul-de-sac Lots in favor of all Lot owners and the general public to permit reasonable ingress and egress across the front of such Lots and upon such sidewalks as shall be constructed thereon. Developer shall construct all such required sidewalks, which shall be

maintained by the owner of the Lot. Lot 2 is hereby subjected to a SIGN EXHIBIT to permit the erection by the Developer and the maintenance by Developer, the Corporation, and their successors and assigns, of a sign and sign structure thereon for the purpose of identifying the Subdivision to the general public.

6. Front building setback lines ("B.S.L.'s") of twenty-five (25) feet as shown on the Plat are hereby established, between which lines and the front property line no permanent or other structures, other than drives, shall be erected or maintained. Side yards shall have a minimum depth of eight (8) feet with an aggregate depth of twenty (20) feet. Rear yards shall have a minimum depth of twenty (20) feet. In the case of corner Lots, each street frontage shall be deemed to be a front property line and all other yards shall be deemed to be side yards.

7. Golfers playing the Millview Country Club golf course shall have the right of reasonable, temporary, non-exclusive pedestrian ingress and egress to any Lot in order to retrieve errant golf balls. This shall not be construed as giving to any golfers any right of access to any building on any Lot, to play golf shots from any Lot, or to drive golf carts upon any Lot.

8. No building or other structure shall be erected, placed upon, or altered on any Residential Lot in this Subdivision until the Committee shall have approved the building plans, specifications, and Plot Plans as to the conformity and harmony of external design thereof with existing structures within the Subdivision and shall have approved the location of the building with respect to topography and finished grade elevation. Furthermore, prior to commencement of construction on a Residential Lot, the builder/owner shall prove to the Committee that all applicable fees for parks and recreation, sewer tap-on, building permit, and other fees payable to the City of Franklin, to local utility providers, and to the Corporation, if any, have been paid in full.

No such Plot plan shall be approved by the Committee unless:

- a. the Plot plan shall be identical to the Plot plan attached to the building permit for the Lot; and
- b. the builder/owner shall be required to plant at least two (2) trees with two (2) inches minimum diameter and of a type approved by the Franklin Tree Board (or other agency or commission of the City of Franklin), which trees shall be planted in the required front yard of the Lot.

9. The Developer shall construct a sidewalk along the entire frontage(s) of each Lot on a dedicated street. Such sidewalks shall be concrete, at least four (4) inches thick, and

four (4) feet in uniform width. Along all street frontages, except adjacent to cul-de-sacs, the sidewalks shall be located entirely within the right-of-way and the outside edge shall be six (6) inches inside the right-of-way line. Adjacent to cul-de-sacs the sidewalks shall be located three (3) feet inside and one (1) foot outside the right-of-way line (see Sidewalk Encroachment, above). After completion of a sidewalk by developer, such sidewalk shall be maintained by the Lot owner.

10. No live tree shall be removed from any Residential Lot without the approval of the Committee.

11. No mailbox or exterior yard light shall be erected on any Residential Lot without review and approval of the Committee to assure conformance to such uniform standards as may be prescribed by said Committee.

12. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines and a line connecting points twenty-five (25) feet from the intersection of said right-of-way lines or, in the case of a rounded property corner, from the intersection of the right-of-way lines extended. The same sightline limitations shall apply to any Lot within ten (10) feet of the intersection of a right-of-way line and the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. Except as may be permitted under paragraph number 25 below, no fence shall be erected on any Residential Lot, the purpose or result of which will be to obstruct reasonable vision, light, or air. All residential fences shall be kept in good repair and erected reasonably so as to enclose the property and decorate the same without hindrance or obstruction to any other property. No fence, wall, or driveway shall be constructed along the common boundary between the subdivision and Hillview Country Club without the prior written approval of the Board of Directors of Hillview Country Club, Inc. and by the Committee.

13. All residences constructed within the subdivision shall have one attached garage for two or three automobiles. All driveways shall be hard surfaced with either concrete or asphalt. Any changes and alterations to the exterior surfaces of structures or driveways on Residential Lots shall be subject to Committee approval.

14. No hotel, boarding house, mercantile, factory, or building of any kind for commercial use shall be erected or maintained on any Lot in this subdivision except upon Lots 1 and 2.

15. No trailers, sheds, or outhouses of any kind shall be erected or situated on any lot herein, except those for use by a builder during the construction of a structure on a lot.
16. No farm animals, fowls, or domestic animals used for commercial purposes shall be kept or permitted on any lot.
17. No noxious, unlawful, or otherwise offensive activity shall be carried out on any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
18. Each owner of a building on a lot must connect with any public sanitary sewer available. No private or semi-private water supply or sewage disposal system may be located upon any lot which is not in compliance with regulations or procedure as provided by the Indiana State Board of Health or other civil authority having jurisdiction unless and until access to public water or public sanitary sewer, as the case may be, shall be terminated.
19. The repair or storage of inoperative motor vehicles or material alteration of motor vehicles shall not be permitted on any lot, unless entirely within a garage permitted to be constructed by the Committee.
20. No school, preschool, day-care facility, church, or similar institution of any kind shall be maintained, conducted, or operated upon any Residential lot.
21. No exterior lighting shall be directed outside the boundaries of any lot, nor shall any lighting be used which constitutes more than normal convenience lighting on any Residential lot, unless the same shall be approved by the Committee.
22. Laundry shall not be dried out-of-doors upon any lot.
23. No signs of any nature, including "for sale" or "for rent" signs, or other advertisements shall be displayed on any Residential lot, or within the right-of-way of any other part of the subdivision adjacent to a Residential lot, except with the approval of the Committee.
24. All television or other antennae shall be affixed to improvements located on the respective lot involved. No freestanding antenna or satellite dish for any purpose shall be permitted. All antennae shall conform to all City of Franklin codes, permits, fees, and inspection regulations.

25. No above-ground pools shall be erected on any Lot. In-ground pools and their related decks and fencing shall be subject to approval by the Committee. No such structures shall be permitted in any easements.

26. Lot owners shall not place or dump any trash, waste, refuse, or other objectionable matter upon any Lot, easement, or Common Area unless approved by the Committee. All trash, waste, and refuse stored on any Lot shall be stored in covered receptacles. Owners must provide receptacles approved by the Committee for garbage and trash. There shall be no open burning except in connection with cooking in a grill, fireplace, or other normal cooking device.

27. It shall be the responsibility of the owner of each Lot to comply at all times with the provisions of the grading plan and drainage plan as approved for this Plat by the Plan Commission of the City of Franklin and the requirements of all drainage permits for the subdivision which have been or may be issued by governmental authorities.

28. Drainage swales (ditches) along dedicated streets and within the rights-of-way, or on dedicated easements, shall not be altered, dug out, filled in, tilled, or otherwise changed without the written permission of the Franklin Board of Public Works and Safety. Lot owners must maintain swales on their Lots as sodded grassways or other non-eroding surfaces. Water from roofs or parking areas must be contained on the Lot long enough so that said drainage swales or ditches will not be damaged by such water. Residential driveways may be constructed over swales or ditches only when appropriately sized culverts or other approved structures shall have been permitted by the Board of Public Works and Safety and by the Committee.

29. Any owner which shall alter, change, damage, or fail to maintain the drainage swales or ditches on its Lot will be held responsible for such action and will be given ten (10) day's notice by certified mail to repair said damage, after which time, if corrective action shall not have been taken, the Board of Public Works and Safety or the Committee may cause said repairs to be accomplished. The cost for such repairs shall be the liability of the affected owner and the Corporation shall have the right to a lien against the Lot to secure repayment of such liability by the Lot owner.

30. Unless a delay is caused by strikes, war, court injunction, or acts of God, the exterior of any dwelling or structure built upon any Lot shall be completed within one (1) year after the date of commencement of the building process.

31. No camper, motor home, truck, trailer, or boat may be stored on any Lot in public view.

32. No lot owner shall permit the growth of weeds and voluntary trees and bushes on its Lot, and each owner shall keep its Lot reasonably clear from unsightly growth at all times. If an owner shall fail to comply with this Covenant after reasonable notice, the Committee shall have the right and power to cut weeds and clear the Lot of such growth at the expense of the Lot owner. In such event, the Corporation shall have the right to a lien against said Lot to secure repayment of such expense by the Lot owner.

33. Underground or outside storage tanks shall not be placed on a Lot without the prior written consent of the Committee and all Lot owners adjoining or across the street from such Lot.

34. No boats or docks shall be allowed on the lakes in the Subdivision. Use of the lakes shall be under the control of the Corporation.

35. The right of enforcement of each of the foregoing Covenants by injunction, with the right to cause the removal by due process of law of structures erected or maintained in violation thereof, is reserved to the Corporation and the owners of the Lots, their heirs, personal representatives, successors, and assigns, who are entitled to such relief without being required to show any damage of any kind to the Corporation or any owner. In the case of a wilful disregard of these Covenants by a violator thereof, or in the case of a continuing violation of these Covenants after reasonable notice, the Corporation shall be entitled to recover its reasonable court costs, attorneys' fees, and other expenses which may be incurred in seeking enforcement of these Covenants.

36. Conveyance of part of Common Area No. 3, as shown on the Plat, by the Developer, or the Corporation, as the case may be, to Hillview Country Club, Inc., its successor or assign, shall be permitted at any time; provided, however, that such conveyed part shall be not larger than a strin of land measuring twenty (20) feet (east-west) by 1,563.43 (north-south) off of the west side of Common Area No. 3 and that Hillview Country Club, Inc., its successor or assign, shall grant to the Developer, or the Corporation, as the case may be, an easement to maintain such conveyed portion of Common Area No. 3 as part of the drainage system of the Subdivision.

37. The Developer hereby reserves the right to plat additional land as a part of Fairway Lakes and to create burdens upon and grant benefits to such additional land and the Subdivision as may be deemed appropriate in the sole discretion of Developer.

38. After the "Applicable Date," as defined in the Declaration of Covenants and Restrictions of Fairway Lakes as recorded in the Office of the Recorder of Johnson County, Indiana, the foregoing Covenants may be amended upon the affirmative vote of the owners of both Business Lots and the owners of at least seventy-five percent (75%) of the Residential Lots. Each such amendment must be evidenced by a written instrument, signed and acknowledged by the owner or owners concurring therein, setting forth facts sufficient to indicate compliance with this paragraph and recorded in the Office of the Recorder of Johnson County, Indiana.

39. Except as the same may be amended from time to time the foregoing Covenants will be in full force and effect until January 1, 2016, at which time they will be automatically extended for successive periods of ten (10) years each, unless by a vote of seventy-five percent (75%) of the then Lot owners it shall be agreed that these Covenants shall terminate in whole or in part. Any such vote shall be deemed to be an amendment of these Covenants.

40. Invalidation of any of these Covenants or any part thereof by judgment or court order shall not affect or render the remainder of said Covenants invalid or inoperative, and thereafter these Covenants shall be enforced as though the invalid or inoperative sections were not a part hereof.

IN WITNESS WHEREOF, Fairway Lakes Development has caused the above and foregoing Restrictive Covenants for Fairway Lakes, Section 1, to be executed by its duly authorized general partner this 14th day of September, 1991.

Fairway Lakes Development
by: M.J. Flaherty Developers, Inc.

by:  Michael J. Flaherty, Pres.

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

Before me, a Notary Public in and for said County and State, personally appeared Michael J. Flaherty, known to me to be the President of M.J. Flaherty Developers, Inc., an Indiana corporation and general partner of Fairway Lakes Development, an Indiana general partnership, who acknowledged the execution of the above and foregoing Restrictive Covenants of Fairway Lakes for and on behalf of said partnership.

Witness my hand and Notarial Seal this 11th day of September, 1991.

PHILIP C. THASHER
NOTARY PUBLIC STATE OF INDIANA
FARMER COUNTY
MY COMMISSION EXPIRES JULY 27, 2004

Signature: Philip C. Thasher
Notary Public



Printed: _____
My county of residence is: _____

My commission expires: 7-27-04

Exhibit A: Legal Description of Peal Estate, being Section 1 of Fairway Lakes Subdivision

This Instrument prepared by:
Philip C. Thasher, Attorney-at-Law
Suite 2300, One Indiana Square
Indianapolis, IN 46204-2012
(317) 369-6361

EXHIBIT A
Legal Description of Fairway Lakes
Section 1

Part of the East Half of the Northwest Quarter and part of the East Half of the Southwest Quarter of Section 18, Township 12 North, Range 5 East of the Second Principal Meridian, described as follows:

Commencing at the Southeast corner of the Northwest Quarter of the said Section; thence North 00 degrees 38 minutes 39 seconds West on and along the East line thereof 777.63 feet; thence South 89 degrees 17 minutes 31 seconds West 798.55 feet to the Point of Beginning of this described tract; thence South 09 degrees 35 minutes 43 seconds East 165.00 feet; thence South 24 degrees 09 minutes 41 seconds West 84.48 feet; thence North 76 degrees 28 minutes 31 seconds East 18.86 feet; thence South 44 degrees 25 minutes 01 seconds East 177.33 feet; thence North 89 degrees 17 minutes 31 seconds East 105.00 feet; thence North 50 degrees 04 minutes 11 seconds East 61.14 feet; thence North 89 degrees 17 minutes 31 seconds East 171.00 feet; thence South 45 degrees 39 minutes 25 seconds East 11.30 feet; thence South 00 degrees 36 minutes 21 seconds East 92.00 feet; thence South 64 degrees 54 minutes 45 seconds East 27.60 feet; thence South 00 degrees 42 minutes 29 seconds East 122.99 feet; thence South 00 degrees 38 minutes 39 seconds East 50.00 feet; thence South 00 degrees 42 minutes 29 seconds East 140.00 feet; thence North 89 degrees 17 minutes 31 seconds East 110.41 feet; thence South directly on a curve to the left having a radius of 125.00 feet a curved distance of 105.30 feet, said arc being subtended by a chord bearing South 30 degrees 14 minutes 53 seconds East 102.22 feet; thence South 35 degrees 37 minutes 06 seconds West 1.00 feet; thence South 88 degrees 59 minutes 30 seconds West 337.46 feet; thence South 76 degrees 33 minutes 35 seconds West 51.44 feet; thence South 69 degrees 49 minutes 04 seconds West 54.44 feet; thence South 51 degrees 02 minutes 32 seconds West 51.44 feet; thence South 38 degrees 17 minutes 01 seconds West 45.16 feet; thence South 89 degrees 31 minutes 02 seconds West 252.25 feet; thence South directly on a curve to the left which has a radius of 474.00 feet, a curved distance of 140.52 feet, said arc being subtended by a chord bearing South 08 degrees 00 minutes 36 seconds West 140.01 feet; thence South 00 degrees 28 minutes 58 seconds East 772.48 feet; thence South 87 degrees 16 minutes 14 seconds West 1.00 feet; thence South 00 degrees 28 minutes 58 seconds East 30.04 feet to the North right-of-way line of State Road 44; thence South 87 degrees 16 minutes 14 seconds West on and along the said right-of-way line 204.06 feet to the Southeast corner of Flaherty's Professional Park as recorded in Plat Cabinet "C", slide 490 in the Recorder's Office of Johnson County, Indiana; thence North 00 degrees 09 minutes 23 seconds East on and along the East line of the said subdivision and the East line of Galview Villas as recorded in Plat Cabinet "C", Slide 401A and 401B, 349.50 feet to the Northeast corner of Galview Villas; thence North 00 degrees 28 minutes 58 seconds West 1563.43 feet; thence North 89 degrees 17 minutes 31 seconds East 333.00 feet to the Point of Beginning containing 18.241 acres more or less.

EXHIBIT A
Eatonville Lakes
Page 2

Also: Tract 3 in Fieherly's Professional Park as recorded in Plat Cabinet "C", Slide 490 in the Recorder's Office of Johnson County, Indiana.

SEP 11 4 06 PM '91

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JACQUILINE E. KELLEN
JOHNSON COUNTY RECORDER

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ARTICLES OF INCORPORATION
OF
FAIRWAY LAKES HOMEOWNERS ASSOCIATION, INC.

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ARTICLES OF INCORPORATION
OF
FAIRWAY LAKES HOMEOWNERS ASSOCIATION, INC.

The undersigned incorporator desiring to form a corporation (hereinafter referred to as the "Corporation") pursuant to the provisions of Article 17 of Title 23 of the Indiana Code, as amended, (hereinafter referred to as the "Act"), execute the following Articles of Incorporation:

ARTICLE I

NAME

The name of the Corporation is FAIRWAY LAKES HOMEOWNERS ASSOCIATION, INC.

ARTICLE II

PURPOSES

Purposes. The purposes for which the Corporation is formed are:

Section 1. To promote and develop the health, safety, common good, and social welfare of the Owners and residents of the residential and business community which is proposed to be developed or which is in the process of being developed by Fairway Lakes Development, an Indiana general partnership ("Declarant"), or by its successors, on all or portions of the real estate in Johnson County, Indiana more particularly described in Exhibit "A" attached hereto and hereby incorporated herein (the "Real Estate") and on such additional real estate adjacent to the Real Estate as may be included within the terms of the Declaration by Declarant from time to time, and to provide for the maintenance, repair, replacement, and operation of the Common Areas of such community as defined in Article I, Section 1(h) of the Declaration of Covenants and Restrictions of Fairway Lakes Subdivision, as defined in Section 3(a)(i) below, and the payment of taxes assessed against and payable with respect to such Common Areas.

Section 2. To provide, as a "homeowners association" and "residential real estate management association" as defined under the Internal Revenue Code of 1986, as amended ("Code"), for the acquisition, construction, management, maintenance, and care of "association property," as defined in said Code; provided, however, that the Corporation shall have the discretion to elect to be taxed as a regular corporation.

Section 3. (a) So long as the same are in furtherance of the purposes of the Corporation described in Sections 1 and 2 of

this Article II and are not contrary to any limitation or restriction imposed by the Act, the Declaration (hereinafter defined), or any other provisions of these Articles of Incorporation,

(i) to exercise all of the rights, privileges, powers, and authority, and to perform all of the duties and obligations of the "Corporation" (as defined herein and in the Declaration) provided for in that certain Declaration of Covenants and Restrictions of Fairway Lakes (herein referred to as the "Declaration") applicable to all or portions of the Real Estate, which Declaration was recorded in the office of the Recorder of Johnson County, Indiana on September 11, 1991, in Miscellaneous Record Book 63, page 880, and as the same may be supplemented or amended from time to time as therein provided, said Declaration being incorporated herein by reference as if set forth at length;

(ii) to fix, levy, collect, and enforce payment by any lawful means of all charges and assessments pursuant to the terms of the Declaration and the Act; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Corporation, including, but not limited to, all licenses, taxes or governmental charges levied or imposed against the property of the Corporation;

(iii) to acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, or otherwise dispose of real or personal property in connection with the affairs of the Corporation;

(iv) to borrow money and pledge, mortgage, encumber, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

(v) except as restricted herein, to have, possess, exercise, and enjoy all of the rights, privileges, and powers granted to corporations by the Act, as now existing or hereafter amended, and by the common law.

(b) Notwithstanding the above and the Act, the Corporation shall not have the power or purpose to do any of the following:

(i) to be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(ii) to pay or establish any pension plans, pension trusts, or other benefit or incentive plans for the Corporation's directors, officers, employees, or agents;

(iii) to make any donations for the public welfare or for any charitable, religious, scientific, educational, or political purpose, or for any other purpose without receipt of fair and adequate consideration;

(iv) to establish conditions on membership other than ownership of a Lot in Fairway Lakes subdivision;

(v) to carry on a business; or

(vi) to have or exercise any of the powers of a trustee under any law.

Section 4. (a) Until dissolution, the Corporation is and shall at all times be a nonprofit corporation, and its activities shall be conducted for the foregoing purposes in such a manner that no part of its activities shall result in pecuniary remuneration to its Members as such (except for reasonable compensation to Members for services actually rendered) and no part of its net earnings shall inure to the benefit of any private Member (other than by acquiring, construction of, or providing management, maintenance, and care of "association property," and other than by rebate of excess membership dues, fees, charges, and assessments).

(b) Upon dissolution, the assets of the Corporation shall be distributed as follows:

(1) In kind to the Members in accordance with such formula or determination as shall be recommended by the Board of Directors and approved by the Members; or,

(2) In cash to the Members in equal shares per Lot owned of the Real Estate; or,

(3) To a new or replacement homeowners association which has as a primary purpose the maintenance, repair, and preservation, and management of the Common Areas of Fairway Lakes subdivision.

The Corporation shall not purchase, redeem, or acquire any of the memberships in itself except upon dissolution and then in equal shares per paragraph (2) hereinabove.

Section 5. After the Applicable Date, a vote by the Members to dissolve the Corporation must be approved by not fewer than seventy-five percent (75%) of the Members entitled to vote.

ARTICLE III

POWERS

The purposes set forth in Article II hereof shall be construed to constitute powers as well as purposes of the Corporation, and the enumeration of particular powers or other powers not particularly expressed or stated, which other powers are properly within the general scope of the purposes of the Corporation, or incidental thereto, or are convenient or appropriate for the accomplishment of such purposes.

ARTICLE IV

PERIOD OF EXISTENCE

The period during which the Corporation shall continue is perpetual.

ARTICLE V

REGISTERED AGENT, REGISTERED OFFICE, AND PRINCIPAL OFFICE

Section 1. Registered Agent and Registered Office. The name and address of the Corporation's Registered Agent and Registered Office for service of process are Michael J. Flaherty, 1910 Longest Drive, Franklin, Indiana 46131.

Section 2. Principal Office. The post office address of the principal office of the Corporation is 1910 Longest Drive, Franklin, Indiana 46131.

ARTICLE VI

MEMBERSHIP

Section 1. Classes. The Corporation will have members, whose rights and duties are set forth herein, in the Bylaws, and in the Declaration.

(a) Class A Members. Each Owner (as defined in the Declaration) of a Lot (as defined in the Declaration), other than Declarant, shall, automatically upon becoming an owner of a Lot, be and become a "Member" of the Corporation, and shall remain a Class A Member until such ownership ceases, but membership shall terminate when such Person ceases to be an Owner. Except as provided in subsection (b) of Section 1 of this Article VI, membership shall be appurtenant to the Lots and cannot be separated from nor assigned, hypothecated, or transferred in any manner except as an appurtenance to a Lot. Any such Person or entity who holds an interest in a Lot merely as security for the

performance of an obligation shall not be a Member until such time as such Person realizes upon his or her security. The duties of membership include the payment of Interim, Regular, and Special Assessments levied by the Corporation, the obligation of which Assessments is imposed against each Owner of and becomes a lien upon the Lot against which such Assessments are made as provided by Article IX of the Declaration. A Class A Member shall not have the right to resign membership in the Corporation except in connection with the transfer of the Class A Member's interest in the Lot owned by the Class A Member.

(b) Special Members. In addition to the persons described in subsection (a) and subsection (c) of this Section 1, until the earlier of (i) December 31, 1998, or (ii) the date upon which the written resignation of the Class B Member as such is delivered to the Registered Agent of the Corporation (the applicable date being hereinafter referred to as the "Applicable Date"), there shall be three (3) additional Members of the Corporation, being the Persons from time to time appointed by Declarant to the Initial Board (as defined in the Declaration) to act as the Board of Directors of the Corporation, said Persons being hereinafter referred to as "Special Members." Special Members shall not be deemed or considered Members of the Corporation nor Owners of Lots for any purpose other than to qualify to act as Members of the Board of Directors of the Corporation and as Members of the Initial Board. Membership of each Special Member shall terminate upon the earlier of (x) the Applicable Date, or (y) the date such Person is no longer a Member of the Initial Board.

(c) Class B Members. Declarant, and all successors and assigns of Declarant designated by Declarant in a written notice mailed or delivered to the Registered Agent of the Corporation, shall be Class B Members of the Corporation; provided, however, as of the Applicable Date each Class B membership shall be converted to Class A membership. Declarant shall have the right to transfer and assign its rights hereunder at any time.

Section 2. Rights, Preferences, Limitations, and Restrictions of Classes. The Members shall have such rights, duties, liabilities, and obligations, and shall be subject to such limitations and restrictions, as are provided herein, in the Declaration, and in the Act.

Section 3. Voting Rights of Members:

(a) The Class A Members described in subsection (a) of Section 1 of this Article VI shall have the same and equal voting rights on all matters submitted to vote at any annual or special meeting of the Members, the same being one (1) vote for each Lot of which such Class A Member is the Owner; provided, however, that until the Applicable Date, each Owner, by acceptance of

a deed to a Lot, or by acquisition of any interest in a Lot or Dwelling Unit (as defined in the Declaration) by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact, and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which Members are entitled to vote under the Declaration, the Act, or otherwise, and such appointment shall not be affected by incompetence of the Owner granting the same. When more than one (1) Person (as defined in the Declaration) constitutes the Owner of a particular Lot, all such Persons shall be Class A Members of the Corporation, but all of such Persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(b) The Special Members described herein shall not have voting rights on any matters submitted to any vote of the Members unless such Special Member is also a Class A Member under subsection (a) Section 1 of this Article VI, in which event his or her voting rights shall be governed by subsection (a) of Section 3 of this Article VI.

(c) Each of the Class B Members described in subsection (c) of Section 1 of this Article VI shall be entitled to five (5) votes for each Lot of which it is the Owner on all matters requiring a vote of the Members. After the Applicable Date, Class B Members shall have the same voting rights as Class A Members.

Section 4. Suspension of Membership Rights. The membership rights, including voting rights, of any Person whose interest in the Real Estate is subject to Assessments under the Declaration, may be suspended by action of the Directors during the period when the Assessments remain unpaid; but, upon payment of such Assessments, his or her rights and privileges shall be automatically restored. If the Directors have adopted and published rules and regulations governing the use of the Common Areas and the personal conduct of any person thereon, as provided in Article V, Section 6(g), of the Declaration, they may, in their discretion, suspend the rights of any such Person for violation of such rules and regulations for a period not to exceed ninety (90) days. Procedure for suspension shall be set forth in the Bylaws of the Corporation.

ARTICLE VII

DIRECTORS

Section 1. Number of Directors. The Initial Board of Directors is composed of three (3) Members. At any time, the number of Directors may be changed so that the Board of Directors shall be composed of not fewer than three (3) nor more than nine (9) persons; provided, however, that the exact number of Directors shall be prescribed from time to time in the Bylaws of the Corporation; and, provided further, that under no circumstances shall the minimum number be fewer than three (3). Until the Applicable Date, the Declarant shall have the right to appoint and remove all Directors of the Corporation and the Class A Members shall not have the right to remove a Director.

Section 2. Names and Post Office Addresses of the Initial Board of Directors are:

<u>Name</u>	<u>Name and Street or Building</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
Michael J. Flaherty	1910 Longest Drive	Franklin	IN	46131
D. Eugene Davis	3203 Byrd Drive	Indpls.	IN	46227
Robert H. Weaver	3324 Delta Drive	Greenwood	IN	46143

ARTICLE VIII

INCORPORATOR

The name and post office address of the incorporator of the Corporation is as follows:

<u>Name</u>	<u>Name and Street or Building</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
Michael J. Flaherty	1910 Longest Drive	Franklin	IN	46131

ARTICLE IX

STATEMENT OF PROPERTY

The Corporation will take over no property at or upon its incorporation other than the Common Areas, as defined in the Declaration, which may be acquired from Declarant on or after such date of incorporation.

ARTICLE X

PROVISIONS FOR REGULATION AND CONDUCT OF THE AFFAIRS OF CORPORATION

Section 1. Interest of Directors or Officers in Transactions. Any contract or transaction between the Corporation and one or more of its Directors or officers, or between this Corporation and any firm of which one or more of its Directors or officers are members or employees, or in which they are interested, or between this Corporation and any other corporation or association of which one or more of the Directors or officers are shareholders, members, directors, officers, or employees, or in which they are interested, shall be valid for all purposes, notwithstanding the presence of such Director or Directors at the meeting of the Board of Directors when it acts upon or in reference to such contract or transaction, and notwithstanding his or their participation in such action, if the fact of such interest shall be disclosed or known to the Board of Directors and the Board of Directors shall authorize, approve, and ratify such contract or transaction by the approving vote of a majority of all of the Directors present who have no such interest in the contract or transaction; except that the votes of the interested Directors shall be counted if the contract is fair and reasonable to the Corporation. The interested Director or Directors may be counted in determining the presence of a quorum at such meeting. This Section 1 of this Article X shall not be construed to invalidate any contract or other transaction which would otherwise be valid under the common, equitable, or statutory law applicable thereto.

Section 2. Meetings of Members. Meetings of the Members of the Corporation shall be held at such place within Johnson or Marion Counties, State of Indiana, as shall be in accordance with the Bylaws and as may be specified in the respective notices or waivers of notice thereof. At all such meetings a quorum shall consist of Members holding a majority of the possible votes if all Members were present; except that after the Applicable Date a quorum of Members shall consist of Members holding or voting by proxy not fewer than sixteen (16) votes.

Section 3. Meetings of Directors. Meetings of the Directors of the Corporation shall be held at such place within or without the State of Indiana as shall be in accordance with the Bylaws and as may be specified in the respective notices or waivers of notice thereof. Any action required or permitted to be taken at any meeting of the Board of Directors or of any Committee thereof, may be taken without a meeting, if prior to such action a written consent thereto is signed by all Members of the Board of Directors or of such committee, as the case may be, and such written consent is filed with the minutes or proceedings of the Board of Directors or Committee.

Section 4. Powers Relative to Bylaws. The initial Code of Bylaws of the Corporation shall be adopted by the Initial Board. The power to alter, amend, add to, and repeal the Bylaws of the Corporation after the Applicable Date is hereby vested in the Members, which power shall be exercised in accordance with the requirements of the Declaration; provided, however, that prior to the Applicable Date, the Board of Directors shall have the power to amend the Bylaws with only the prior written consent and approval of Declarant.

Section 5. General Powers of Directors. The Board of Directors shall have exclusive power to elect the officers of the Corporation. In addition to the powers and authority expressly conferred by these Articles of Incorporation, the Board of Directors is hereby authorized to exercise such powers and to do all such acts as may be exercised or done by a corporation organized and existing under the provisions of the Act and as may be exercised or done by virtue of any other law; provided, however, that such power and authority shall not be exercised in conflict with the restrictions set forth in subsection (b) of Section 3 of Article II hereof.

Section 6. Indemnification of Directors, Officers, Agents, Employees, and Others. (a) The Corporation shall indemnify any Person who is or was a Director, officer, employee, or agent of the Corporation to the fullest extent permitted under the Act. Each person seeking indemnification shall do all things necessary and in a timely manner to obtain the indemnification of the Corporation in accordance with the Act. Notwithstanding the above, the Corporation shall not be permitted to indemnify a Director until the Board of Directors shall have determined that, in accordance with the rules set forth at Indiana Code Section 23-17-16-12, the Director seeking indemnification has met the standard of conduct set forth in Indiana Code Section 23-17-6-8. No Director, officer, employee, or agent shall be entitled to seek indemnification in any court conducting the proceeding in question or in any other court of competent jurisdiction unless and until such indemnification shall have been denied by the Corporation.

(b) The Corporation shall have the power to enter into agreements with officers, employees, and agents of the Corporation, whether or not they shall be Directors, to provide indemnification and for payment of advance expenses to such officers, employees, or agents.

The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust, or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising

out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Section.

Section 7. Power to Amend Articles. Prior to the Applicable Date, the Board of Directors shall have the power to amend, alter, change, or repeal, in the manner now or hereafter prescribed by the Act, any provision contained in these Articles, and all rights, powers, and privileges hereby conferred on Members, Directors, or officers of the Corporation are subject to such reserved power; provided, however, that there shall be no amendment, alteration, change, or repeal of these Articles prior to the Applicable Date without the prior written consent and approval of Declarant. After the Applicable Date, the power to amend these Articles shall be vested in the Members, who shall exercise such power in accordance with the Act and the Bylaws.

Section 8. Initial Board. The Initial Board of Directors named in Article VII hereof shall serve as the Board of Directors of the Corporation until removal by Declarant or the first annual meeting of the Members occurring on or after the Applicable Date and, in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date, every such vacancy shall be filled by a Person appointed by Declarant. Any such Person so appointed by Declarant shall thereafter be deemed a Member of the Initial Board.

Section 9. Terms of Directors after the Applicable Date. After the Applicable Date, each Member of the Board of Directors of the Corporation shall be elected for a term of one (1) year.

Section 10. Sale of Assets. The Board of Directors shall not have the power to mortgage, pledge, dedicate to repayment of debt, or encumber any property of the Corporation, nor to sell, lease, exchange, or otherwise dispose of all or substantially all of the assets of the Corporation, unless, prior to the Applicable Date, the prior written approval of the Declarant shall have been obtained and, after the Applicable Date, the consent of seventy-five percent (75%) of the Members entitled to vote shall have been obtained.

ARTICLE XI

TYPE OF CORPORATION

This Corporation is a mutual benefit corporation.

ARTICLE XII

DEFINITIONS

All terms not otherwise defined in these Articles shall have the same meaning as the same terms defined in the Declaration and in the Bylaws of the Corporation.

IN WITNESS WHEREOF, I, the undersigned, do hereby execute these Articles of Incorporation, certify to the truth of the facts herein stated, and verify and affirm, subject to the penalties for perjury, that the facts contained herein are true, this 17th day of September, 1991.

Michael J. Flaherty
Michael J. Flaherty

STATE OF INDIANA)
) SS:
COUNTY OF Jackson)

Before me, a Notary Public in and for said County and State, personally appeared Michael J. Flaherty, who acknowledged the execution of the foregoing Articles of Incorporation, and who, having been duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this 17th day of September, 1991.

PHILIP C. THRASHER
NOTARY PUBLIC STATE OF INDIANA
MARION COUNTY
MY COMMISSION EXP. JULY 27, 1994

Signature: Philip C. Thrasher
Notary Public

Printed: _____

My commission expires: _____ My county of residence is: _____

Exhibit: A: Legal Description of Fairway Lakes, Section 1

This instrument prepared by:
Philip C. Thrasher, Attorney-at-Law
Suite 2300, One Indiana Square
Indianapolis, IN 46204-2012
(317) 269-6262

Articles.syg

EXHIBIT A
Legal Description of Fairway Lakes,
Section 1

Part of the East Half of the Northwest Quarter and part of the East Half of the Southwest Quarter of Section 18, Township 12 North, Range 5 East of the Second Principal Meridian, Needham Township, Johnson County, State of Indiana, described as follows:

Commencing at the Southeast corner of the Northwest Quarter of the said Section; thence North 00 degrees 38 minutes 39 seconds West on and along the East line thereof 777.63 feet; thence South 89 degrees 17 minutes 31 seconds West 798.55 feet to the Point of Beginning of the described tract; thence South 09 degrees 35 minutes 53 seconds East 165.00 feet; thence South 24 degrees 09 minutes 41 seconds West 84.48 feet; thence North 76 degrees 28 minutes 31 seconds East 18.86 feet; thence South 44 degrees 25 minutes 01 seconds East 177.33 feet; thence North 89 degrees 17 minutes 31 seconds East 105.00 feet; thence North 50 degrees 04 minutes 11 seconds East 61.14 feet; thence North 89 degrees 17 minutes 31 seconds East 172.00 feet; thence South 45 degrees 39 minutes 25 seconds East 11.30 feet; thence South 00 degrees 36 minutes 21 seconds East 92.00 feet; thence South 64 degrees 54 minutes 45 seconds East 27.60 feet; thence South 00 degrees 42 minutes 29 seconds East 122.99 feet; thence South 00 degrees 38 minutes 39 seconds East 50.00 feet; thence South 00 degrees 42 minutes 29 seconds East 140.00 feet; thence North 89 degrees 17 minutes 31 seconds East 110.41 feet; thence Southeasterly on a curve to the left having a radius of 125.00 feet a curved distance of 105.30 feet, said arc being subtended by a chord bearing South 30 degrees 14 minutes 53 seconds East 102.22 feet; thence South 35 degrees 37 minutes 06 seconds West 1.00 feet; thence South 88 degrees 59 minutes 30 seconds West 337.46 feet; thence South 76 degrees 33 minutes 35 seconds West 54.44 feet; thence South 63 degrees 48 minutes 04 seconds West 54.44 feet; thence South 51 degrees 02 minutes 32 seconds West 54.44 feet; thence South 38 degrees 17 minutes 01 seconds West 45.16 feet; thence South 89 degrees 31 minutes 02 seconds West 252.25 feet; thence Southwesterly on a curve to the left which has a radius of 474.00 feet, a curved distance of 140.52 feet, said arc being subtended by a chord bearing South 08 degrees 00 minutes 36 seconds West 140.01 feet; thence South 00 degrees 28 minutes 58 seconds East 772.48 feet; thence South 87 degrees 16 minutes 14 seconds West 1.00 feet; thence South 00 degrees 28 minutes 58 seconds East 50.04 feet to the North right-of-way line of State Road 44; thence South 87 degrees 16 minutes 14 seconds West on and along the said right-of-way line 204.06 feet to the Southeast corner of Flaherty's Professional Park as recorded in Plat Cabinet "C", slide 490 in the Recorder's Office of Johnson County, Indiana; thence North 00 degrees 09 minutes 23 seconds East on and along the east line of the said subdivision and the East line of Golfview Villas as recorded in Plat Cabinet "C", Slide 401A and 401B, 349.50 feet to the Northeast corner of

Golfview Villas; thence North 00 degrees 28 minutes 58 seconds West 1563.43 feet; thence North 89 degrees 17 minutes 31 seconds East 333.00 feet to the Point of Beginning containing 18.241 acres more or less.

Also: Tract 3 in Flaherty's Professional Park as recorded in Plat Cabinet "C", Slide 490 in the Recorder's Office of Johnson County, Indiana.