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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

FOX RIDGE

THIS DECLARATION, made on the date hereinaft set forth by Waterfront Development Co., Inc., an Indiana corporation, hereinafter referred to as "Declarant",

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Indianapolis, Marion County, Indiana, which is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

NOW, THEREFORE, Declarant hereby declares that all of the properties described in Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

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RECORDERS ASSOCIATION CO.  
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ARTICLE I

NAME

This subdivision shall be known and designated as Fox Ridge, a subdivision located in Indianapolis, Marion County, Indiana.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Fox Ridge Homeowners Association, Inc., an Indiana not-for-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the real estate described in Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Plat" shall mean and refer to the subdivision plat of the Properties recorded in the Office of the Recorder of Marion County, Indiana, as the same may be hereafter amended or supplemented.

Section 5. "Driveway Easements" shall mean and refer to the surface easements for ingress and egress appurtenant to the Lots as shown on the Plat and labeled "D.W.E.". The rights of Owners as to their respective Driveway Easements are more specifically described in Article XI.

Section 6. "Lot" shall mean and refer to any parcel of land shown upon the Plat. With respect to any single-family portion of any Building that may be constructed on a part of more than one of such parcels, "Lot" shall mean and refer to the real estate conveyed in connection with such dwelling unit.

Section 7. "Building" shall mean and refer to any multi-family dwelling unit that may be constructed on a part of more than one Lot.

Section 8. "Declarant" shall mean and refer to Waterfront Development Co., Inc., its successors and assigns as a declarant.

Section 9. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

### ARTICLE III

#### LOTS

Section 1. Number of Lots. This subdivision consists of 108 Lots numbered from 1a to 27d, both inclusive, with public streets as shown on the Plat.

Section 2. Street Dedication. The streets (but not Driveway Easements) shown on the Plat and now heretofore dedicated are hereby dedicated to the public.

Section 3. Land Use. All Lots shall be used exclusively for single-family, residential purposes, except that Declarant shall have the right to subdivide, dedicate or otherwise convey or use a portion of any one or more Lots which it owns for recreational uses for the benefit of all Owners and other members of Western Homeowners Association, Inc. In the event any portion of any Lot or Lots is so used, reasonable rules and regulations shall be promulgated and enforced so that the use and enjoyment of adjacent Lots by the Owners thereof shall not be disturbed.

Section 4. Subdivision of Lots. No Lot shall be subdivided to form units of less area, except as otherwise provided in Section 3 of this Article III.

Section 5. Conveyance of Lots. Each Lot shall be conveyed as a separately designated and equally described freehold estate subject to the covenants, conditions and restrictions contained herein.

### ARTICLE IV

#### ACCESS RIGHTS OF ASSOCIATION

Certain utility lines, sewer and other facilities and other improvements located on one Lot may serve other Lots. The Association and any member thereof whose enjoyment of the use and occupancy of his Lot is affected thereby, their respective officers, agents employees and contractors, shall have an easement thereto and shall have the right, at

80 30211

reasonable times and at any time in case of emergency, to go upon any other Lot for the purpose of maintaining or causing to be maintained or repaired any party walls, utility lines, sewer or other facilities which serve more than one Lot.

If any Owner shall fail to adequately maintain the open area included within his Lot (excluding the maintenance responsibilities of the Association as hereinafter provided), the Association upon the giving of ten (10) days written notice to such Owner, shall have the right to enter upon such open area and do any necessary maintenance thereon. The cost of such maintenance shall be a special assessment against such Lot and the Owner thereof.

The Association shall have and is hereby granted an easement for access to all Lots for ingress and egress as reasonably required by its officers, directors, employees, and their agents and independent contractors, in order to perform its obligations and duties as set forth in this Declaration. The easement specified herein is also reserved for the benefit of Declarant so long as Declarant owns any Lot.

#### ARTICLE V

##### USE RESTRICTIONS

Section 1. Type, Size and Nature of Improvements. No single-family dwelling, garage, outbuilding, fence or wall shall be erected, placed or constructed on any Lot, other than original construction by or on behalf of Declarant, except in a manner approved in writing by Board of Directors or the architectural committee specified in Article XIII hereof prior to the commencement of construction as to the type of materials, exterior facade, design, layout, location, finished grade elevations and the like. Approval shall be considered based upon satisfactory plans and specifications providing such detail as may be reasonably required (which upon approval shall be strictly adhered to throughout construction unless modified

80 30211

or amended with further written approval); subject to the improvement of any Lot satisfying the following minimum standards:

- (a) No structure or building shall be erected, placed or constructed on any Lot other than one (1) single-family dwelling unit not to exceed three (3) stories in height, one (1) private garage for not more than three (3) cars and such other outbuildings as are usual and incidental to the use of such Lot for single-family residential purposes.
- (b) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be erected, placed or constructed on any Lot for use as a residence, either temporarily or permanently, or at any time be used for such purpose.
- (c) Every single-family dwelling unit erected, placed or constructed on any Lot shall have a minimum finished floor area, exclusive of open porches, stoops, attached garages or carports, of seven hundred (700) square feet. In the case of a two-story structure, at least four hundred (400) square feet of the required minimum floor area shall be on the first (1st) floor.
- (d) All materials used on the exterior of any single-family dwelling unit, garage or outbuilding erected, placed or constructed on any Lot shall be demonstrated to last at least fifty (50) years and shall be new, except that used brick, weathered barn siding or the like, or interior design features utilizing other than new materials may be approved by Declarant.
- (e) Every single-family dwelling unit, garage or outbuilding erected, placed or constructed on any Lot shall be completed, including at least one (1) coat of paint, stain, varnish or preservative on any exterior wood surfaces. Until all work is completed and such single-family dwelling unit is ready for occupancy, the Lot shall be kept and maintained in a sightly and orderly manner and no trash or other rubbish shall be permitted to unreasonably accumulate thereon.
- (f) Any tank for the storage of fuel erected, placed or constructed on any Lot outside of any structure or building permitted hereunder shall be concealed or otherwise located below the surface of the ground.
- (g) No fence, wall, hedge or shrub planting which obstructs site lines and elevations between two (2) and six (6) feet above any 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 such lines, or in the case

80 30211

of a rounded property corner, from the intersection of the street lines extended. The same site line limitations shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway, pavement or alley line. 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.

In the event that written approval is not received as required hereunder within twenty-one (21) days from the date requested, the failure to issue such written approval shall be construed as the disapproval of the request made.

Section 2. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 3. Waste Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Waste matter or materials shall be kept only in sanitary containers and all incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 4. Prohibited Activities. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 5. Water and Sewer Systems. No individual water supply system or sanitary sewer system shall be permitted on any Lot.

Section 6. Certain Vehicles Prohibited. Any motor vehicle which is inoperative and not being used for normal transportation shall not be permitted to remain on any Lot.

Section 7. Drainage. Any field tile or underground drain which is encountered in the construction of any improvements on any Lot shall be perpetuated and all Owners of

Lots and their successors shall comply with The Indiana Drainage Code of 1965, and all amendments thereto.

Section 8. Exterior Antennae. Without prior written approval and authorization of the Board of Directors, no exterior television, radio or other type of antennae shall be placed, allowed or maintained upon any portion of the Properties nor upon any structure or improvement situated upon the Properties.

Section 9. Building Line Restriction. No Building or other structure shall be constructed in a manner which encroaches upon the thirty-five (35) feet building along the southern boundary of the Properties as shown on the Plat; provided, however, concrete or similar patios or porches, awnings and fences not in excess of (6) feet in height, may encroach upon said building line. In no event shall any such encroaching patio or porch be enclosed or otherwise improved so as to increase the living or building area of the appurtenant residential unit.

Section 10. Construction and Sale Period. Notwithstanding any provisions contained herein to the contrary, it shall be expressly permissible for Declarant to maintain, during the period of construction and sale of Lots, upon any portion of the Properties which Declarant owns, such facilities as in the sole opinion of Declarant may be reasonably required, or be convenient or incidental to the construction and sale of the Lots, including, but without limitation, storage areas, signs, model residences, construction offices, sales offices and business offices.

#### ARTICLE VI

#### ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

80 30211

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on January 1, 1986.

Section 3. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association.

#### ARTICLE VII

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) monthly assessments or charges; (2) special assessments for capital improvements and operating deficits; and (3) special assessments as provided in Article IV, Article IX and Article X; such assessments to be

80 30211



established and collected as hereinafter provided. The monthly and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties and for the improvements, maintenance and other purposes as specifically provided herein.

Section 3. Maximum Monthly Assessments.

(a) Until January 1, 1981, the maximum monthly assessment on any Lot conveyed by Declarant shall be \$24.00 per Lot, except that if a Lot is undeveloped or construction of the residential unit thereon is incomplete, the maximum monthly assessment for such Lot shall be twenty-five per cent (25%) of the monthly assessment applicable to other Lots.

(b) From and after January 1, 1981, the maximum monthly assessment may be increased each calendar year not more than 12% above the maximum assessment for the previous year without a vote of the membership.

(c) From and after January 1, 1981, the maximum monthly assessment may be increased above 12% by a vote of a majority of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(d) The Board of Directors may fix the monthly assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the

monthly assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action

Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments for capital improvements and operating deficits must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Monthly

Assessments: Due Dates. The monthly assessment provided for herein and the insurance assessment provided for in Article X shall commence as to each Lot on the first day of the first month following the conveyance of such Lot by Declarant. The Board of Directors shall fix any increase in the amount of the monthly assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special

80 30211

assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments:

Remedies of the Association. If any assessment (or monthly installment of such assessment, if applicable) is not paid on the date when due (pursuant to Section 7 hereof), then the entire unpaid assessment shall become delinquent and shall become, together with such interest thereon and cost of collection thereof as hereinafter provided, a continuing lien on such Lot, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of 8% per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action in favor of the prevailing party.

80 30211

No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages.

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. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

ARTICLE VIII

DECLARANT'S RIGHTS

Section 1. Use of Property. Declarant reserves the right to use any of the Lots as models and to sell, assign or conduct other businesses in connection with the construction and development of the project from any of such Lots prior to their being sold. This reservation of right or privilege in Declarant includes, but is not limited to, the right to maintain a model, erect signs, maintain an office, staff the office with employees, and to show Lots then unsold. Declarant retains the right to be considered an Owner of any Lot that remains unsold. Declarant also reserves the right to make changes in the location or manner of construction of buildings and other improvements.

Section 2. Declarant's Easement for Adjoining Property. Declarant is presently the owner of certain real estate which is adjacent to the eastern, western and northern boundaries of the real estate described in Exhibit "A" attached hereto. Declarant reserves unto itself the right to connect

80 30211

to, extend and utilize the utilities located or to be located on the Properties.

## ARTICLE IX

### MAINTENANCE

Section 1. Maintenance by Owners. The owner of each Lot shall furnish and be responsible for, at his own expense, all the maintenance, repairs, decorating and replacements within his residence, including the heating and air conditioning system and any partitions and interior walls. He further shall be responsible for the maintenance, repair and replacement of all windows in his residence and also the doors leading into the residence, and any and all other maintenance, repair, and replacements of the improvements on his Lot unless otherwise provided herein.

To the extent that equipment, facilities and fixtures within any Lot shall be connected to similar equipment, facilities or fixtures affecting or serving other Lots, then the use thereof by the Owner of such Lot shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to any equipment, facilities or fixtures affecting or serving other Lots.

Section 2. Maintenance of Driveway Easements. The Association shall be responsible for the maintenance, repair and repaving of all Driveway Easements and for the maintenance and repair of any pedestrian walkways or sidewalks constructed or to be constructed within the Properties by Declarant for the benefit of all Owners of Lots.

Section 3. Exterior Maintenance Obligations of Association with Respect to Lots. In addition to maintenance

upon the Driveway Easements, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, and other exterior improvements, lawns, shrubs, trees, trash removal and snow removal from the paved portions of Driveway Easements and front walks. Such exterior maintenance shall not include glass surfaces, doors and doorways, windows, and window frames.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

Declarant has or may construct landscape islands or other similar improvements within a portion or portions of Arrow Wood Lane or Hunters Path, or both, for the benefit of the community. Unless otherwise required by any governmental entity having jurisdiction, the Association shall repair and maintain such landscape islands or other improvements and shall keep such improvements in a neat, clean and presentable condition at all times.

#### ARTICLE X

#### INSURANCE

Section 1. Casualty Insurance. The Association shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Properties in an amount consonant with the full replacement value of the improvements excluding all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by any Owner and excluding any personal property owned by any Owner whether located on a Lot or elsewhere. If the Association can obtain such coverage for reasonable amounts it shall also

80 30211

obtain "all risk" coverage. The Association shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Association, it may cause such full replacement value to be determined by a qualified appraiser and the cost of any such appraisal shall be included in the monthly maintenance assessment for each Lot. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the Mortgagee of each Owner.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, its Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms, that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter permitted.

Section 2. Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to Country Village, all Owners and all other persons entitled to occupy any Lot.

The Association shall also obtain any other insurance required by law to be maintained, including but not limited to

workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Association.

Section 3. Monthly Assessment for Insurance. The premiums for all such insurance hereinabove described shall be paid by the Association and the pro-rata cost thereof shall become a separate monthly assessment to which each Lot conveyed by Declarant shall be subject under the terms and provisions of Article VII. Each Owner shall prepay to the Association at the time his lot is conveyed to such Owner an amount equal to thirteen (13) monthly insurance assessments and shall maintain such prepayment account at all times. The Association shall hold such funds in escrow for the payment for the purchase of insurance as herein provided. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

Section 4. Distribution to Mortgagee. In no event shall any distribution of proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event any remittances shall be to the Owner and his Mortgagee jointly.



Section 5. Additional Insurance. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable at his own expense affording coverage upon his personal property, the contents of his residence (including, but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by him) and his personal property stored elsewhere on the Properties, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association. Each Owner may obtain casualty insurance at his own expense upon his Lot but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to proration of insurance purchased by an Owner under this paragraph, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

Section 6. Casualty and Restoration. Damage to or destruction of any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose.

Section 7. Insufficiency of Insurance Proceeds. If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the

Building or Buildings so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association which shall then have the right to levy a special assessment against all Lots for such deficiency.

For purposes of Section 6 above, repair, reconstruction and restoration shall mean construction or rebuilding of the Building or Buildings to as near as possible the same condition as it existed immediately prior to the damage or destruction and with the same or similar type of architecture.

Section 8. Surplus of Insurance Proceeds. In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Properties, or, in the discretion of the Board of Directors, may be distributed to the Owners of the Buildings affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

#### ARTICLE XI

#### EASEMENTS

#### Section 1. Drainage, Utility and Sewer Easements.

There are strips of ground marked "drainage, utility and sewer easements (D. U. & S. E.);" shown on the Plat which are hereby reserved for utilities including telephone, electric, gas, water, sewer and the like, not including transportation companies, for the installation and maintenance of poles, mains, sewers, drains, ducts, lines, wires and the like. The Owners of Lots shall take title subject to the easements hereby created and subject at all times to the rights of proper

authorities to service the utilities and the easements hereby created. No permanent structure of any kind, and no part thereof, including fences, shall be built, erected or maintained on the areas shown on the Plat to be drainage, utility and sewer easements except walkways and paving on the Driveway Easements.

Section 2. Driveway Easements. Driveway Easements as specified in Article II, Section 5, are hereby reserved for the common use and enjoyment of the Owners of any Lot or Lots, their families and invitees. Such Driveway Easements shall not be used for parking of trucks or other commercial vehicles, except temporarily or incidentally for the making of pickups and deliveries to neighboring Lots. No velocipedes, bicycles, toys or other private property shall be allowed to obstruct any Driveway Easement, nor shall the same be stored in the open alongside building walls or other locations of public view. Cars, trucks and other vehicles shall not be parked on the paved portion of any Driveway Easement so as to impede access from or to any Lot or public street. No fence, barrier or other obstruction of any kind shall ever be placed or constructed on any Driveway Easement.

Section 3. Additional Easement Rights. Declarant further reserves unto itself an easement and the full right, title and authority to relocate, alter or otherwise change the location of any drainage, utility, and sewer easement or any Driveway Easement and to grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress, egress, utility and similar purposes on or within any Lot or Lots or any portion of the Properties. Declarant further reserves the right to more specifically describe or to change the description of any such drainage, utility and sewer easement, driveway easement, or other easement, licence or right-of-way by written instrument.

amended Plat or amendment to the Plat recorded in the Office of the Recorder of Marion County, Indiana and any Owner of any Lot shall take title subject to the rights and easements reserved herein; provided, however, the rights reserved in this Section 3 shall not be exercised in a manner which unreasonably and adversely affects any Building or portion thereof located upon any Lot or any Owner's use or enjoyment thereof or which unreasonably restricts the rights of ingress and egress to any Lot. The rights and easements reserved by Declarant in this Section 3 shall run with the land and Declarant's right to further alter or grant easements shall automatically terminate at such time as Declarant shall convey the last Lot within the Properties.

Section 4. Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars, ambulances, etc., and emergency personnel, public and private, over and upon the Driveway Easements and any pedestrian walkways or sidewalks.

Section 5. Easement for Entryway Sign. Declarant reserves unto itself for so long as it owns any Lot and thereafter reserves and grants to the Owners by and through the Association, the right and easement to erect and maintain an entryway sign within the area shown on the Plat as a permanent signage and entryway easement.

## ARTICLE XII

### PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing lines between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability

80 30211

for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. Subject to the provisions of Article X hereof, if a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

#### ARTICLE XIII

##### ARCHITECTURAL CONTROL

No building, fence, wall or other structure, except original construction of Buildings by or on behalf of Declarant, shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein, other than by the Board of Directors, be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall

80 30211

have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefor as above provided.

#### ARTICLE XIV

##### SIGNS AND HOME OCCUPATIONS

Section 1. Signs. Prior to January 1, 1983, no advertising signs of any kind (other than interior window signs) shall be displayed on any Lot without the prior written approval of Declarant. Further, no signs of any nature, kind or description (including incidental signs as regulated in Section 2.18 of the Dwelling District Zoning Ordinance of Marion County, Indiana, 68-AO-2, as amended) shall be erected, placed or maintained on any Lot which identify, advertise or in any way describe the existence or conduct of a home occupation.

Section 2. Home Occupations. No home occupation shall be conducted or maintained on any Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of any such Lot and which is generally or regularly conducted in another location away from such Lot. Nothing contained herein shall be construed or interpreted to effect the activities of Declarant in the sale of Lots or single-family dwellings as a part of the development of the Properties.

#### ARTICLE XV

##### ENCROACHMENTS AND EASEMENTS FOR BUILDINGS

If, by reason of the location, construction, settling or shifting of a Building, any part of a Building consisting of

the single-family residence appurtenant to a Lot (hereinafter in this Article XIV referred to as the "Encroaching Lot") now encroaches or shall hereafter encroach upon any other adjacent Lot, then in such event, an easement shall be deemed to exist and run to the Owner of the Encroaching Lot for the maintenance, use and enjoyment of the Encroaching Lot and all appurtenances thereto.

Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in or on any other Lot and serving his Lot.

#### ARTICLE XVI

##### GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the persons in ownership from time to time of the Lots and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 2. Amendment. This Declaration may be amended or changed at any time within ten (10) years following the date of recordation by an instrument recorded in the Office of the Recorder of Marion County, Indiana, signed by at least a majority of the then Owners and thereafter by a similar recorded instrument signed by at least seventy-five per cent

80 30211

(75%) of such Owners; provided, however, none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. This Declaration shall run with the land and shall be binding upon all parties claiming under them for a period of twenty (20) years from the date of recordation in the Office of the Recorder of Marion County, Indiana, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten-year period it is amended or changed in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way effect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 3. Annexation. Additional residential property may be annexed to the Properties with the consent of a majority of ownership of the Lots by the recording of a declaration applicable to such annexed real estate which incorporates the terms of the declaration herein.

Section 4. Absolute Right of Declarant. Notwithstanding any other provision of this Declaration, Declarant shall have the absolute right, power and authority and Declarant hereby reserves unto itself the absolute right, power and authority so long as Declarant retains legal title to not less than twenty-five per cent (25%) of the Lots, to change, modify, abrogate in whole or in part or in any other manner amend this Declaration and the terms and provisions hereof.

IN WITNESS WHEREOF, Waterfront Development Co., Inc.,  
by Charles P. Morgan, Vice President, and John C. Stark,  
Secretary, has caused this Declaration to be executed this 15<sup>th</sup>  
day of May, 1980.



WATERFRONT DEVELOPMENT CO., INC.

By: Charles P. Morgan  
Charles P. Morgan,  
Vice President

ATTEST:

John C. Stark  
John C. Stark, Secretary

STATE OF INDIANA )  
                          ) SS  
COUNTY OF MARION )

Before me, a Notary Public, in and for such County and State, personally appeared Charles P. Morgan, Vice President, and John C. Stark, Secretary, of Waterfront Development Co., Inc., an Indiana corporation, each of whom, after having been first duly sworn, acknowledged the execution of the foregoing Declaration for and on behalf of said Corporation.

Dated this 15<sup>th</sup> day of May, 1980.

Cynthia Watson Adams  
Notary Public

Cynthia Watson Adams  
Printed

My Commission Expires:  
My Commission Expires Dec. 5, 1983

My County of Residence:  
Marion

This Instrument was prepared by John W. Van Buskirk, Attorney.

80 30211

## EXHIBIT "A"

A PART OF THE SOUTHEAST AND SOUTHWEST QUARTERS OF SECTION 22, AND THE NORTHEAST AND NORTHWEST QUARTERS OF SECTION 27, BOTH OF TOWNSHIP 16 NORTH, RANGE 2 EAST, MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF SECTION 27; THENCE SOUTH  $3^{\circ}53'26''$  WEST, ALONG THE EAST LINE OF SAID QUARTER, 461.28 FEET TO THE CENTERLINE OF U.S. 136 (CRAWFORDSVILLE ROAD) AS NOW LOCATED, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE NORTH  $60^{\circ}32'36''$  WEST, ALONG THE CENTERLINE OF SAID ROAD, 830.16 FEET; THENCE NORTH  $29^{\circ}27'24''$  EAST, 508.79 FEET INTO SAID SOUTHWEST QUARTER OF SECTION 22; THENCE SOUTH  $60^{\circ}32'36''$  EAST, PARALLEL TO THE CENTERLINE OF SAID ROAD, 281.76 FEET; THENCE SOUTH  $38^{\circ}51'26''$  EAST, 60.00 FEET; THENCE NORTH  $48^{\circ}35'16''$  EAST, 178.71 FEET TO THE CENTERLINE OF EAGLE VALLEY PASS AS DESCRIBED IN INSTRUMENT NUMBER 76-47124 RECORDED IN THE OFFICE OF THE MARION COUNTY RECORDER; SAID POINT ALSO BEING ON A CURVE TO THE RIGHT; THENCE ALONG SAID STREET CENTERLINE AND CURVE 67.14 FEET TO A POINT OF REVERSE CURVATURE, SAID CURVE HAVING A DELTA OF  $5^{\circ}29'42''$ , A CHORD OF 67.11 FEET, A RADIUS OF 700.00 FEET, AND A CHORD BEARING OF SOUTH  $38^{\circ}39'52''$  EAST; THENCE CONTINUING ALONG SAID STREET CENTERLINE FROM SAID POINT OF REVERSE CURVATURE ALONG A CURVE TO THE LEFT 183.90 FEET INTO SAID SOUTHEAST QUARTER, SAID CURVE HAVING A DELTA OF  $32^{\circ}55'36''$ , A CHORD OF 181.38 FEET, A RADIUS OF 320.00 FEET, AND A CHORD BEARING OF SOUTH  $52^{\circ}22'48''$  EAST, THENCE LEAVING SAID STREET CENTERLINE, SOUTH  $3^{\circ}53'26''$  WEST, PARALLEL TO THE WEST LINE OF SAID SOUTHEAST AND NORTHEAST QUARTERS AND INTO SAID NORTHEAST QUARTER OF SECTION 27, 670.31 FEET TO THE CENTERLINE OF SAID U.S. 136; THENCE NORTH  $60^{\circ}32'36''$  WEST, ALONG SAID CENTERLINE, 97.00 FEET TO THE POINT OF BEGINNING, CONTAINING 10.13 ACRES, MORE OR LESS.

SUBJECT TO AN EASEMENT IN FAVOR OF INDIANAPOLIS POWER AND LIGHT COMPANY ALONG THE EAST SIDE, THE RIGHT-OF-WAY OF U.S. 136 ALONG THE SOUTH SIDE, AND THE RIGHT-OF-WAY OF EAGLE VALLEY PASS ALONG THE EXTREME NORTH SIDE.

CROSS REFERENCE

80 53091

CROSS REFERENCE

THE PARK ENGINEERING CO., INC.  
5350 MADISON AVENUE  
P.O. BOX 27128  
INDIANAPOLIS, INDIANA 46227  
TELEPHONE: 787-4487

DULY ENTERED  
FEB 1980

AUG 25 00 07 62 00

Roger L. Park,  
P.E. and L.S.  
President

REGISTERED SURVEYOR

*Henry E. Gorman*

August 8, 1980

STATE OF INDIANA)  
) SS:  
COUNTY OF MARION)

APPROVAL  
OF  
E. SYSTEMS CORRECTION  
SUBDIVISION DEVELOPMENT  
COMMISSION  
DIVISION OF PLANNING & ZONING  
PLAT COMMITTEE

AUG 21 1980

*Daugherty Johnson*  
SUBDIVISION ADMINISTRATOR



Civil Engineers  
& Surveyors

AFFIDAVIT

Roger L. Park, being duly sworn upon his oath, deposes and says:

That he is a Registered Land Surveyor in the State of Indiana, Registered No. S-3029 and that scrivener's errors occurred in the Original Plat of Fox Ridge, Marion County, Indiana, the plat of which is recorded as Instrument #80-30211, dated May 16, 1980, in the records of the Recorder of Marion County, Indiana, and that the correction described on the attached sheets should be changed as indicated.

FURTHER AFFIANT SAYETH NOT:

*Roger L. Park L.S.*  
Roger L. Park

Subscribed and sworn to before me this 12th day of August, 1980.

*Cindy King*  
Notary Public

My Commission Expires June 4, 1984

County of Residence Marion

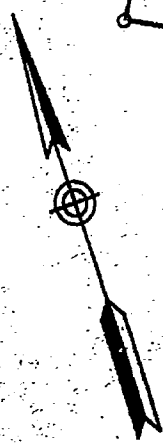
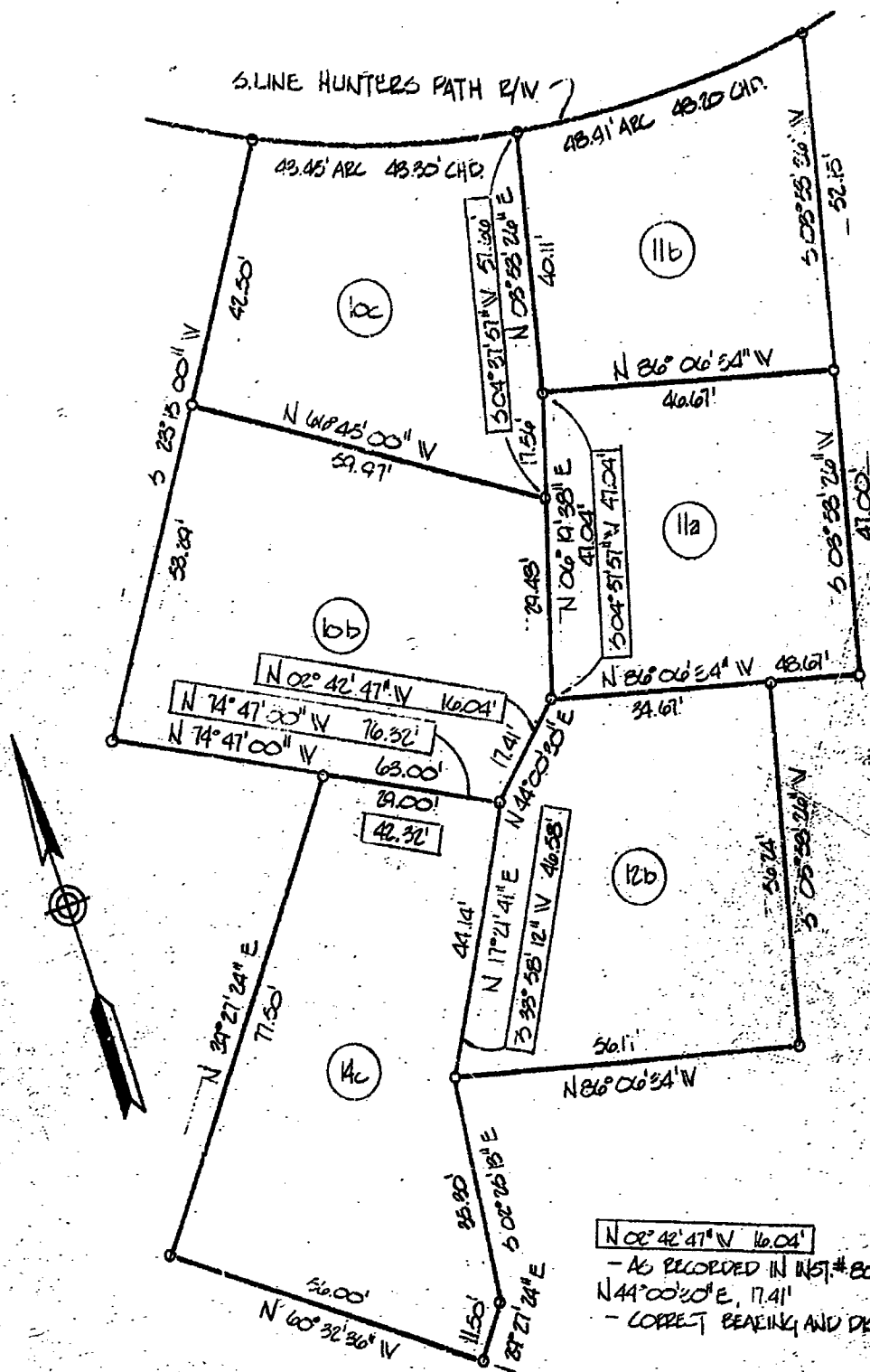
Witnessed for recording this \_\_\_\_\_ day of \_\_\_\_\_, 1980, at \_\_\_\_\_  
O'clock \_\_\_\_\_ M., and recorded in Instrument No. \_\_\_\_\_.

Lucille Camp, Recorder  
Marion County, Indiana

This instrument prepared by Roger L. Park, Registered Land Surveyor,  
Indianapolis, Indiana.

RECORDED FOR RECORD  
LUCILLE CAMP  
RECORDER  
MARION CO.  
AUG 29 9 32 AM '80

80 53091

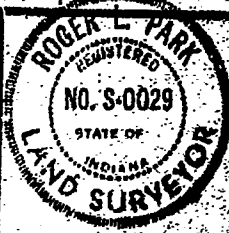


N 02° 42' 47" W 16.04'  
 - AS RECORDED IN INST. # 80-20211  
 N 44° 00' 20" E, 17.41'  
 - CORRECT BEARING AND DISTANCE

SHEET 2 OF 4

**The PARK ENGINEERING Co., Inc.**  
 Civil Engineers & Surveyors

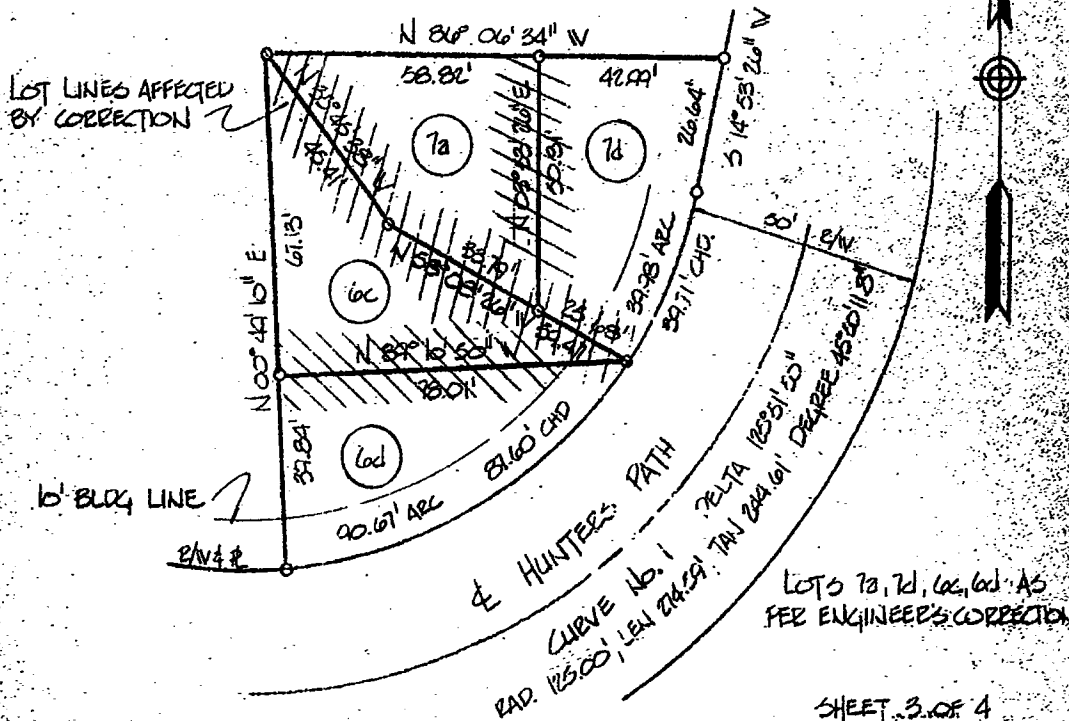
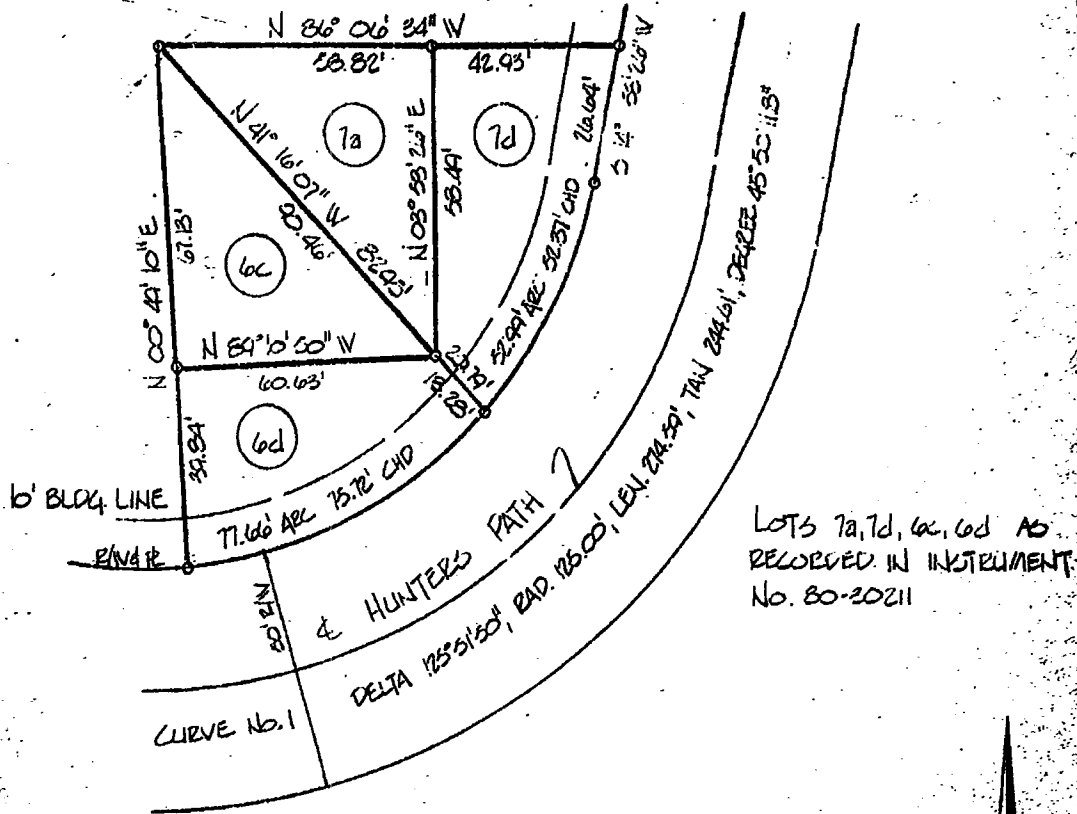
5550 Madison Ave.      30 53091      1000 W Oak St.  
 P.O. Box 27128           P.O. Box 408  
 Indianapolis, Indiana 46227           Zionsville, Indiana 46077



ENGINEER'S CORRECTION  
 FOX RIDGE PLAT  
 AS RECORDED IN INSTRUMENT NO. 80-20211

8-12-82

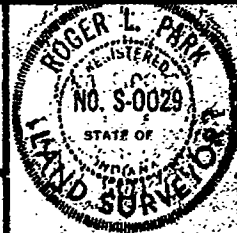
Project No. 775	Scale 1" = 60'	Drawn By EAW	Checked By FLB	Date AUG 3, 1982	Rescaled Park
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SHEET 3 OF 4

**The PARK ENGINEERING Co., Inc.**  
**Civil Engineers & Surveyors**

5950 Madison Ave. P.O. Box 27128 Indianapolis, Indiana 46227  
 80 53091  
 1000 W Oak St. P.O. Box 408 Zionsville, Indiana 46077



ENGINEER'S CORRECTION  
 FOX RIDGE PLAT  
 AS RECORDED IN INSTRUMENT No. 80-20211

8-12-80

Project No. 775 X	Scale 1" = 30'	Drawn By B/MW	Checked By FLB	Date AUG. 8, 1980	<i>Roger L. Park</i>
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### LOT AREAS

LOT NO.	CORRECTED AREA (S.F.)	ORIGINAL AREA (S.F.)	LOT NO.	CORRECTED AREA (S.F.)	ORIGINAL AREA (S.F.)	LOT NO.	CORRECTED AREA (S.F.)	ORIGINAL AREA (S.F.)
1a	2545	(3207)	10a	3233	(2199)	19a	1982	(4266)
1b	3167	(2677)	10b	2411	(2961)	19b	3187	(2065)
1c	2036	(3563)	10c	2491	(2331)	19c	3471	(7626)
1d	2523	(1947)	10d	3153	(1910)	19d	2093	(2352)
2a	2257	(2562)	11a	2240	(2742)	20a	3573	(2670)
2b	4405	(2306)	11b	2090	(2303)	20b	2197	(2963)
2c	1342	(1720)	11c	12,545	(2466)	20c	2686	(2369)
2d	2327	(3162)	11d	5139	(4745)	20d	3314	(1960)
3a	1417	(2963)	12a	2126	(2281)	21a	2196	(2523)
3b	2299	(1915)	12b	2727	(2119)	21b	2708	(4195)
3c	3253	(2413)	12c	6935	(2782)	21c	2309	(2746)
3d	1545	(2035)	12d	5656	(2185)	21d	2561	(1978)
4a	3565	(1842)	13a	3694	(3187)	22a	6338	(4056)
4b	1947	(1814)	13b	2221	(3471)	22b	7717	(2603)
4c	3267	(1663)	13c	8553	(2093)	22c	3121	(3509)
4d	2678	(2004)	13d	8813	(1982)	22d	3722	(3120)
5a	1814	(2327)	14a	3290	(2561)	23a	2185	(3233)
5b	1663	(2267)	14b	3323	(2196)	23b	2281	(2411)
5c	2004	(4405)	14c	3356	(2708)	23c	2119	(2476)
5d	1842	(1942)	14d	3920	(2309)	23d	2782	(3255)
6a	1915	(1545)	15a	4056	(3121)	24a	4745	(3649)
6b	2413	(1419)	15b	2603	(3722)	24b	3742	(3920)
6c	2104	(2299)	15c	3509	(6338)	24c	2303	(3290)
6d	2150	(3253)	15d	3120	(7717)	24d	2446	(3323)
7a	1786	(2545)	16a	2746	(2197)	25a	1966	(3694)
7b	3102	(3167)	16b	1978	(2686)	25b	2530	(2221)
7c	2502	(2080)	16c	2523	(3314)	25c	2519	(8553)
7d	2033	(2523)	16d	4195	(3573)	25d	2025	(8813)
8a	4266	(3713)	17a	3618	(2811)	26a	4820	(5656)
8b	2055	(3222)	17b	3160	(2166)	26b	3212	(2126)
8c	1636	(4820)	17c	2819	(3020)	26c	3713	(2331)
8d	2352	(3212)	17d	2137	(3694)	26d	3222	(6935)
9a	1960	(2025)	18a	3694	(3618)	27a	2961	(2240)
9b	2670	(1966)	18b	2811	(3160)	27b	2331	(2090)
9c	2963	(2530)	18c	2166	(2813)	27c	1910	(12,545)
9d	2369	(2519)	18d	3020	(2137)	27d	2199	(5139)

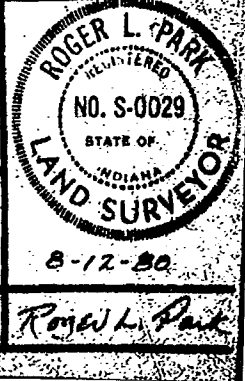
SHEET 4 OF 4

**The PARK ENGINEERING Co., Inc.**  
**Civil Engineers & Surveyors**  
 5850 Madison Ave. **80-53091** 1000 W Oak St.  
 P.O. Box 27128 P.O. Box 408  
 Indianapolis, Indiana 46227 Zionsville, Indiana 46077

**ENGINEER'S CORRECTION OF  
 FOX RIDGE PLAT  
 AS RECORDED IN INSTRUMENT NO. 80-30211**

Project No.	Scale	Drawn By	Checked By
		AMW	PLB

Date **AUG. 1, 1980**



CROSS REFERENCE

80 78174

CROSS REFERENCE 670

AMENDMENT TO DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF  
FOX RIDGE

THIS AMENDMENT to the Declaration of Covenants,  
Conditions and Restrictions of Fox Ridge made on this  
10<sup>th</sup> day of October, 1980, by Waterfront  
Development Co., Inc., an Indiana corporation (hereinafter  
referred to as "Declarant"),

WITNESSETH:

WHEREAS, Declarant desires to amend the Declaration of  
Covenants, Conditions and Restrictions of Fox Ridge executed  
by Declarant on May 15, 1980 and recorded on May 16, 1980 as  
Instrument No. 80-30211 in the Office of the Recorder of  
Marion County, Indiana (hereinafter referred to as the  
"Declaration"); and

WHEREAS, Declarant is the owner of more than twenty-  
five per cent (25%) of Lots located within the property  
described in the Declaration and has the right and authority  
pursuant to Article XVI, Section 4 of the Declaration, to  
make this amendment;

NOW, THEREFORE, Declarant hereby amends the Declaration  
as follows:

1. Article VII, Section 3, shall be amended by adding  
the following subsection at the end of such section;

(e) A portion of such monthly assessments shall be  
set aside or otherwise allocated in a reserve fund  
for the purpose of providing repair and replacement  
of any common areas which may be brought within  
the jurisdiction of the Association or of any capital  
improvement which the Association is required to  
maintain.

2. Article XVI, Section 2, shall be deleted and the  
following shall be inserted in lieu thereof;

RECEIVED FOR RECORD  
LUCILLE CAMP  
RECORDER-MARION CO.  
DEC 3 3 27 PM '80

80 78174

Section 2. Amendment. This Declaration may be amended or changed by an instrument recorded in the Office of the Recorder of Marion County, Indiana signed or approved by at least two-thirds (2/3) of Owners; provided, however, none of the rights of Declarant reserved hereunder may be amended or changed without Declarant's prior written approval. This Declaration shall run with the land and shall be binding for a period of twenty (20) years from the date of recordation in the Office of the Recorder of Marion County, Indiana, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten (10) year period it is amended or changes in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way affect any of the other provisions hereof, but the same shall remain in full force and effect.

3. Article XVI, Section 3, shall be deleted and the following shall be inserted in lieu thereof;

Section 3. Annexation. Additional property may be annexed to the Properties with the consent of two-thirds (2/3) of Owners upon the recording of a Declaration applicable to such annexed real estate which incorporates the terms of the Declaration herein.

4. Article XVI, Section 4, shall be deleted and the following shall be inserted in lieu thereof;



Section 4. Mortgagee Rights.

Any lender or lenders holding a first mortgage or first mortgages upon any lot or lots may, jointly or singly, pay any real estate taxes or other taxes or charges which are in default and which may or have become a charge or lien against any common property or any property owned by the Association and such lender or lenders may pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any such common areas or other property owned by the Association or covering any property for which the Association has an obligation to maintain insurance coverage. Any such lender or lenders making payments in accordance with this section shall be entitled to immediate reimbursement therefore from the Association along with any costs incurred, including reasonable attorneys' fees.

5. Article XVI shall be amended by the addition of the following new section 5;

Section 5. Notice to Mortgagees. The Association, upon request, shall provide written notification to any lender holding a first mortgage upon any Lot specifying the defaults of the Owner of such Lot, if any, in the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association, its By-Laws or any other applicable documents which default has not been cured within sixty (60) days.

6. Article XVI shall be amended by the addition of the following new section 6;

Section 6. HUD Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Department of Housing and

80 78173

Urban Development; annexation of additional properties; dedication of common areas (if any); and amendment of this Declaration.

6. The last sentence in Article XI, Section 1 is hereby amended to read as follows:

No permanent structure of any kind, and no part thereof, including fences, shall be built, erected or maintained on the areas shown on the Plat to be drainage, utility and sewer easements except walkways, patios, chimneys and paving on the Driveway Easements and except porches extending not more than four (4) feet from the exterior wall of any Building.

7. Except as amended hereby the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, Waterfront Development Co., Inc. has caused this Declaration to be executed on this 10th day of October, 1980.

WATERFRONT DEVELOPMENT CO., INC.

By: Charles P. Morgan  
Charles P. Morgan, Vice President

ATTEST:  
Brady R. Justice, Jr.  
Brady R. Justice, Jr.,  
Assistant Secretary

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public, in and for said county and state, personally appeared Charles P. Morgan and Brady R. Justice, Jr., the Vice President and Assistant Secretary of Waterfront Development Co., Inc., an Indiana corporation, each of whom, after having been duly sworn, acknowledged the execution of the foregoing for and on behalf of said corporation.

Dated this 10th day of October, 1980.

Nancy Mac Owen  
Nancy Mac Owen,  
Notary Public

My Commission Expires  
March 5, 1982  
My County of Residence  
Hendricks

80 78174

HUD APPROVAL

The foregoing Amendment is hereby approved by the  
Federal Housing Administration, Department of Housing and  
Urban Development.

Federal Housing Administration,  
Department of Housing  
and Urban Development

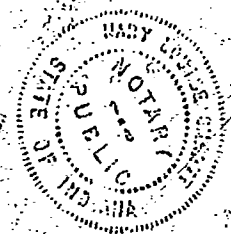
By: Patrick J. Barton, Attorney Advisor  
PATRICK J. BARTON, Attorney Advisor

STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

Before me, a Notary Public, in and for said County and  
State, personally appeared PATRICK J. BARTON  
who, having been first duly sworn, acknowledged the execution  
of the foregoing Approval for and on behalf of the Federal  
Housing Administration, Department of Housing and Urban  
Development.

Dated this 17th day of NOVEMBER, 1980.

Mary Louise Smartt  
Mary Louise Smartt (Notary Public)



Printed \_\_\_\_\_

My Commission Expires:

JUNE 26, 1984

My County of Residence is:

MARION

This Instrument was prepared by John W. Van Buskirk, Attorney.

80 78174

80' 30211 / 57<sup>00</sup>

Fox Ridge

SE AND SW 1/4 Sec 22  
NE AND NW 1/4 Sec 27,  
Both Twp 16 North, Ranged  
EAST

RECEIVED FOR RECORD  
LUCAS COUNTY CLERK  
RECORDS DEPARTMENT  
MAY 16 3 36 PM '80

Stark, West & Smith

5/16 PLAT 1 CDW

20

DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR FOX RIDGE

05/08/97 11:45AM JOAN N. ROMERIL MARION CTY RECORDER CAM 48.00 PAGES: 20  
Inst # 1997-0064209

TABLE OF CONTENTS

NO.		PAGE
ARTICLE I.	GENERAL PURPOSE OF THIS DECLARATION .....	2
ARTICLE II.	DEFINITIONS FOR ALL PURPOSES OF THIS DECLARATION ...	2
ARTICLE III.	GENERAL RESTRICTIONS .....	4
ARTICLE IV.	DECLARANT'S/ASSOCIATION'S RIGHT TO GUARANTEE COMPLIANCE .....	8
ARTICLE V.	FOX RIDGE ARCHITECTURAL CONTROL COMMITTEE .....	8
ARTICLE VI.	COVENANTS FOR MAINTENANCE ASSESSMENTS .....	9
ARTICLE VII.	ORGANIZATION AND DUTIES OF ASSOCIATION .....	12
ARTICLE VIII.	GENERAL PROVISIONS .....	15

DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR FOX RIDGE

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FOX RIDGE ("DECLARATION"), MADE THIS 21<sup>st</sup> DAY OF MAY, 1977, BY DONALD W. BRENNAN, (HEREINAFTER REFERRED TO AS "DECLARANT"),

WITNESSETH THAT:

WHEREAS, DECLARANT IS THE OWNER OF CERTAIN REAL ESTATE LOCATED IN MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED IN THE ATTACHED EXHIBIT "A" ("REAL ESTATE"); AND

WHEREAS, DECLARANT INTENDS TO DEVELOP THE REAL ESTATE, BY CONSTRUCTING RESIDENTIAL FACILITIES, WHICH SHALL BE KNOWN AS "FOX RIDGE"; AND

WHEREAS, A PLAT FOR THE REAL ESTATE TO BE DEVELOPED BY DECLARANT AS FOX RIDGE TO BE RECORDED IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA.

WHEREAS, DECLARANT INTENDS TO SELL AND CONVEY THE RESIDENTIAL FACILITIES AND LOTS WITHIN FOX RIDGE AND DESIRES TO SUBJECT THE REAL ESTATE TO CERTAIN COVENANTS, CONDITIONS, AND RESTRICTIONS ("COVENANTS") IN ORDER TO ENSURE THAT THE DEVELOPMENT AND USE OF THE VARIOUS LOTS ON THE REAL ESTATE ARE HARMONIOUS AND DO NOT ADVERSELY AFFECT THE VALUE OF SURROUNDING LOTS ON THE REAL ESTATE; AND

WHEREAS, DECLARANT DESIRES TO PROVIDE FOR MAINTENANCE OF THE COMMON AREAS, LANDSCAPING EASEMENT AND OTHER IMPROVEMENTS LOCATED ON THE REAL ESTATE WHICH ARE OF COMMON BENEFIT TO THE OWNERS OF THE VARIOUS LOTS WITHIN SAID SUBDIVISION, AND TO THAT END DESIRES TO ESTABLISH CERTAIN OBLIGATIONS ON SAID OWNERS AND A SYSTEM OF ASSESSMENTS AND CHARGES UPON SAID OWNERS FOR CERTAIN MAINTENANCE AND OTHER COSTS IN CONNECTION WITH THE OPERATION OF FOX RIDGE;

NOW THEREFORE, DECLARANT HEREBY DECLARES THAT ALL OF THE REAL ESTATE AS IT IS NOW HELD AND SHALL BE HELD, CONVEYED, HYPOTHECATED OR ENCUMBERED, LEASED, RENTED, USED OCCUPIED AND IMPROVED, IS SUBJECT TO THE FOLLOWING COVENANTS. ALL OF THE COVENANTS SHALL RUN WITH THE REAL ESTATE AND SHALL BE BINDING UPON THE DECLARANT AND UPON THE PARTIES HAVING OR ACQUIRING ANY RIGHT, TITLE, OR INTEREST, LEGAL OR EQUITABLE, IN AND TO THE REAL ESTATE OR ANY PART OR PARTS THEREOF AND SHALL INURE TO THE BENEFIT OF THE DECLARANT AND EVERY ONE OF THE DECLARANT'S SUCCESSORS IN TITLE TO THE REAL ESTATE OR ANY PART OR PARTS THEREOF.

ARTICLE I.

GENERAL PURPOSE OF THIS DECLARATION

THE REAL ESTATE IS HEREBY SUBJECTED TO THE COVENANTS HEREIN DECLARED TO PRESERVE THE VALUE OF THE REAL ESTATE, TO ENSURE PROPER USE AND APPROPRIATE IMPROVEMENT OF THE REAL ESTATE, TO ENCOURAGE THE CONSTRUCTION OF ATTRACTIVE STRUCTURES AND OTHER ATTRACTIVE IMPROVEMENTS AT APPROPRIATE LOCATIONS ON THE REAL ESTATE, TO PREVENT HAPHAZARD DEVELOPMENT THEREOF WHICH MAY NOT BE HARMONIOUS WITH OTHER IMPROVEMENTS ON THE REAL ESTATE, TO PRESERVE AND MAINTAIN PROPER SETBACKS FROM STREETS AND ADEQUATE FREE SPACE BETWEEN STRUCTURES, TO PROVIDE FOR ADEQUATE AND PROPER MAINTENANCE OF THE REAL ESTATE SO AS TO ENSURE A HIGH QUALITY APPEARANCE AND CONDITION OF THE REAL ESTATE AND SO AS TO MEET THE REQUIREMENTS OF CERTAIN GOVERNMENTAL AGENCIES, ALL FOR THE PURPOSE OF PRESERVING THE VALUES OF ALL LOTS WITHIN FOX RIDGE AND TO ENSURE DESIRED HIGH STANDARDS OF MAINTENANCE OF THE REAL ESTATE, TO THE BENEFIT OF ALL OWNERS WITHIN FOX RIDGE.

ARTICLE II.

DEFINITIONS FOR ALL PURPOSES OF THIS DECLARATION

THE FOLLOWING TERMS, WHENEVER USED IN THIS DECLARATION, SHALL HAVE THE MEANINGS ASSIGNED TO THEM BY THIS ARTICLE II:

SECTION 1. ARCHITECTURAL CONTROL COMMITTEE. THE ARCHITECTURAL CONTROL COMMITTEE, OR "ACC", MEANS THE ARCHITECTURAL CONTROL COMMITTEE FOR FOX RIDGE TO BE APPOINTED IN ACCORDANCE WITH THIS DECLARATION.

SECTION 2. ASSESSMENT. "ASSESSMENT" MEANS THE SHARE OF THE COMMON EXPENSES IMPOSED UPON EACH LOT AS DETERMINED AND LEVIED PURSUANT TO THE PROVISIONS OF THIS DECLARATION.

SECTION 3. ASSOCIATION. "ASSOCIATION" MEANS FOX RIDGE HOMEOWNERS' ASSOCIATION, INC., AN INDIANA CORPORATION, FORMED OR TO BE FORMED FOR THE PURPOSE OF DETERMINING AND COLLECTING THE ASSESSMENTS AND OVERSEEING AND ENFORCING THE TERMS OF THIS DECLARATION.

SECTION 4. COMMON EXPENSE. "COMMON EXPENSE" MEANS THE ACTUAL OR ESTIMATED COST TO THE ASSOCIATION FOR MAINTENANCE, MANAGEMENT, OPERATION, REPAIR, IMPROVEMENT, AND REPLACEMENT OF LANDSCAPING, EASEMENT, DRAINAGE SYSTEM, AND OTHER COST OR EXPENSE INCURRED BY THE ASSOCIATION FOR THE BENEFIT OF THE SAME.



SECTION 5. DECLARANT. "DECLARANT" MEANS DONALD W. BRENNAN, OR ANY OTHER PERSON, FIRM, CORPORATION OR PARTNERSHIP WHICH SUCCEEDS TO THE INTEREST OF DONALD W. BRENNAN, AS DEVELOPER AND/OR OWNER OF FOX RIDGE.

SECTION 6. DRAINAGE SYSTEM. "DRAINAGE SYSTEM" MEANS THE LAKE, STORM SEWERS, SUBSURFACE DRAINAGE TILES, PIPES AND STRUCTURES, AND OTHER STRUCTURES, FIXTURES, PROPERTIES, EQUIPMENT AND FACILITIES LOCATED IN, UPON, OR UNDER THE EASEMENTS, OR STREETS AND DESIGNED FOR THE PURPOSE OF EXPEDITING THE DRAINAGE OF SURFACE AND SUBSURFACE WATERS FROM, OVER, AND ACROSS FOX RIDGE.

SECTION 7. EASEMENTS. "EASEMENTS" REFER TO THOSE AREAS RESERVED AS EASEMENTS, ON THE PLAT OF FOX RIDGE.

SECTION 8. FOX RIDGE. "FOX RIDGE" MEANS THE REAL ESTATE AS IT IS PLATTED AND RECORDED BY DECLARANT IN ACCORDANCE WITH THE PROVISIONS OF THIS DECLARATION.

SECTION 9. LANDSCAPE EASEMENTS. "LANDSCAPE EASEMENTS" REFER TO THOSE AREAS RESERVED AS LANDSCAPE EASEMENTS ON THE PLAT OF FOX RIDGE.

SECTION 10. LOT. "LOT" MEANS ANY OF THE SEPARATE PARCELS NUMBERED AND IDENTIFIED ON THE PLAT OF FOX RIDGE.

SECTION 11. MORTGAGEE. "MORTGAGEE" MEANS ANY HOLDER, INSURER, OR GUARANTOR OF ANY FIRST MORTGAGE ON ANY LOT.

SECTION 12. OWNER. "OWNER" MEANS ANY PERSON OR PERSONS WHO ACQUIRE, AFTER THE DATE OF THIS DECLARATION, LEGAL AND/OR EQUITABLE TITLE TO ANY LOT; PROVIDED, HOWEVER, THAT "OWNER" SHALL NOT INCLUDE ANY HOLDER OF ANY MORTGAGE OF ALL OR ANY PART OF ANY LOT, SO LONG AS SUCH HOLD DOES NOT HOLD BOTH LEGAL AND EQUITABLE TITLE THERETO.

SECTION 13. PLAT. "PLAT" MEANS THE FINAL PLAT RECORDED FOR FOX RIDGE.

SECTION 14. STREETS. "STREETS" MEANS ALL OF THE PUBLIC AND PRIVATE ROADWAYS TO THE RESPECTIVE RIGHT-OF-WAY LINES THEREOF, AS SHOWN ON THE PLAT OF FOX RIDGE, WHICH HAVE BEEN OR HEREAFTER ARE CONSTRUCTED FOR THE PURPOSE OF PROVIDING COMMON ACCESS FOR OWNERS, OCCUPANTS AND THEIR GUESTS AND INVITEES, TO ANY OR ALL LOTS.

ARTICLE III.

GENERAL RESTRICTIONS

SECTION 1. MAINTENANCE OF PREMISES. IN ORDER TO MAINTAIN THE STANDARDS OF FOX RIDGE, NO WEEDS, UNDERBRUSH OR OTHER UNSIGHTLY GROWTHS SHALL BE PERMITTED TO GROW OR REMAIN UPON ANY LOT, AND NO REFUSE PILE OR UNSIGHTLY OBJECTS SHALL BE ALLOWED TO BE PLACED OR SUFFERED TO REMAIN ANYWHERE THEREON. ALL OWNERS SHALL MAINTAIN THEIR LOTS AND IMPROVEMENTS SITUATED THEREON IN A MANNER SO AS TO PREVENT THE LOT OR IMPROVEMENTS FROM BECOMING UNSIGHTLY, AND SPECIFICALLY, OWNER SHALL:

(a) MOW THE LOT AT SUCH TIMES AS MAY BE REASONABLY REQUIRED IN ORDER TO PREVENT THE UNSIGHTLY GROWTH OF VEGETATION AND NOXIOUS WEEDS. GRASS ALLOWED TO GROW TO A HEIGHT IN EXCESS OF SIX INCHES (6") SHALL BE DEEMED UNSIGHTLY.

(b) CUT DOWN AND REMOVE DEAD TREES.

(c) KEEP THE EXTERIOR OF ALL IMPROVEMENTS IN SUCH STATE OF REPAIR OR MAINTENANCE SO AS TO AVOID THEIR BECOMING UNSIGHTLY.

(d) PREVENT THE EXISTENCE OF ANY OTHER CONDITION THAT REASONABLY TENDS TO DETRACT FROM OR DIMINISH THE APPEARANCE OF THE LOT AND/OR FOX RIDGE.

FAILURE TO COMPLY SHALL WARRANT THE DECLARANT, AUTHORIZED AGENTS OF MARION COUNTY OR THE ASSOCIATION TO CUT THE GROWTH OR WEEDS, OR CLEAR THE REFUSE FROM THE LOT AT THE EXPENSE OF THE OWNER. THE ASSOCIATION SHALL PLACE AND RECORD A LIEN AGAINST SAID LOT IN AN AMOUNT EQUAL TO THE EXPENSES THEREFOR AND COSTS WHICH COSTS MAY INCLUDE REASONABLE ATTORNEYS FEES FOR THE PLACEMENT OF SAID LIEN SHOULD SUCH BE DEEMED NECESSARY BY THE ASSOCIATION. SAID LIENS SHALL BE SUBJECT AND SUBORDINATE ONLY TO TAXES, MUNICIPAL LIENS, AND THE LIEN OF ANY BONA FIDE MORTGAGE UPON ANY LOT. AT THE OPTION OF THE ASSOCIATION, SAID LIENS MAY BE FORECLOSED UPON IN ANY COURT OF COMPETENT JURISDICTION BY THE ASSOCIATION AS PLAINTIFF FOR THE AMOUNT OF LIEN WITH INTEREST, ATTORNEY'S FEES AND COSTS. ANY JUDGMENT OBTAINED SHALL BE WITHOUT RELIEF FROM VALUATION OR APPRIASEMENT LAWS.

SECTION 2. RESIDENTIAL PURPOSE. NO LOT SHALL BE USED EXCEPT FOR RESIDENTIAL PURPOSES. NO BUILDING SHALL BE ERECTED, ALTERED, PLACED OR PERMITTED ON ANY LOT OTHER THAN A DWELLING NOT TO EXCEED TWO (2) STORIES IN HEIGHT. A DWELLING SHALL HAVE AN ATTACHED GARAGE OF A SIZE TO ACCOMMODATE AT LEAST TWO (2) CARS.

SECTION 3. SETBACKS. NO BUILDING SHALL BE LOCATED ON ANY LOT NEARER TO THE FRONT LOT LINE OR NEARER TO THE SIDE STREET LINE THAN THE MINIMUM BUILDING SETBACK LINES SHOWN ON THE RECORDED PLAT. THE MINIMUM SIDE YARD SETBACK SHALL BE THREE FEET (3') AND MINIMUM AGGREGATE OF THE SIDE YARDS ON ANY LOT SHALL BE TEN FEET (10'). FOR THE PURPOSES OF THIS COVENANT, EAVES, STEPS AND OPEN PORCHES SHALL NOT BE CONSIDERED AS A PART OF THE BUILDING, PROVIDED, HOWEVER, THAT THIS SHALL NOT BE CONSTRUED TO PERMIT ANY PORTION OF A BUILDING ON A LOT TO ENCROACH UPON ANOTHER LOT.

SECTION 4. EASEMENTS. EASEMENTS FOR INSTALLATION AND MAINTENANCE OF UTILITIES AND DRAINAGE FACILITIES ARE RESERVED AS SHOWN ON THE RECORDED PLAT.

SECTION 5. LANDSCAPE EASEMENTS. THE LANDSCAPING WITHIN THE LANDSCAPE EASEMENTS SHALL INITIALLY BE DETERMINED BY THE ARCHITECTURAL CONTROL COMMITTEE AND DEVELOPED BY DECLARANT IN ACCORDANCE WITH THE LANDSCAPE PLAN FOR FOX RIDGE. THE DECLARANT, PRIOR TO THE INCORPORATION OF THE ASSOCIATION, AND THE ASSOCIATION THEREAFTER, SHALL MAINTAIN THE LANDSCAPE EASEMENTS. THE LANDSCAPE EASEMENTS LOCATED WITHIN THE DEDICATED COUNTY ROAD RIGHT-OF-WAY SHALL BE SUBJECT TO TERMINATION BY THE COUNTY IF, IN ITS DISCRETION, THE COUNTY DETERMINES THAT THE LANDSCAPE EASEMENTS ARE NOT BEING PROPERLY MAINTAINED AND/OR CONSTITUTE A HAZARD TO THE MOTORING PUBLIC.

SECTION 6. INOPERABLE VEHICLES. AT NO TIME SHALL ANY UNLICENSED AND/OR INOPERABLE VEHICLE BE PERMITTED ON ANY LOT, COMMON AREA, STREET OR EASEMENT UNLESS KEPT ENTIRELY WITHIN A GARAGE.

SECTION 7. NO MOTOR HOME, CAMPER, BUS OR TRAILER SHALL BE PARKED ON ANY STREET, DRIVEWAY OR YARD. NO INOPERATIVE OR UNLICENSED VEHICLE SHALL BE PARKED ON OR REPAIRED ON ANY LOT IN THIS SUBDIVISION OR ON ANY STREET THEREOF.

SECTION 8. NUISANCES. NO NOXIOUS, OBNOXIOUS, OR OFFENSIVE ACTIVITY SHALL BE CARRIED ON UPON ANY LOT, NOR SHALL ANYTHING BE DONE THEREON WHICH MAY BECOME ANY ANNOYANCE OR NUISANCE TO THE NEIGHBORHOOD. THIS PROVISION MAY BE CONSTRUED TO PROHIBIT EXTREMELY AUDIBLE MUSIC OR ACTIVITIES.

SECTION 9. OUTDOOR STORAGE. NO LARGE MACHINERY OR EQUIPMENT SHALL BE PERMITTED TO BE KEPT OR STORED ON ANY LOT EXCEPT WITHIN THE DWELLING.

SECTION 10. DRAINAGE DITCHES. DRAINAGE SWALES (DITCHES) ALONG DEDICATED ROADWAYS AND WITHIN THE RIGHT-OF-WAY, OR ON DEDICATED EASEMENTS, ARE NOT TO BE ALTERED, DUG OUT, FILLED IN, TILED OR OTHERWISE CHANGED WITHOUT THE WRITTEN PERMISSION OF AUTHORIZED AGENTS OF MARION COUNTY.

ANY PROPERTY OWNER ALTERING, CHANGING, DAMAGING, OR FAILING TO MAINTAIN THESE DRAINAGE SWALES OR DITCHES WILL BE HELD RESPONSIBLE FOR SUCH ACTION AND WILL BE GIVEN TEN (10) DAYS NOTICE BY CERTIFIED MAIL TO REPAIR SAID DAMAGE, AFTER WHICH TIME, IF NO ACTION IS TAKEN, AUTHORIZED AGENTS OF MARION COUNTY MAY CAUSE SAID REPAIRS TO BE ACCOMPLISHED AND THE BILL FOR COST OF SAID REPAIRS WILL BE SENT TO THE AFFECTED PROPERTY OWNER FOR THE IMMEDIATE PAYMENT.

SECTION 11. SIGNS. NO SIGN OF ANY KING SHALL BE DISPLAYED TO THE PUBLIC VIEW ON ANY LOT EXCEPT ONE (1) PROFESSIONALLY MANUFACTURED SIGN OF NOT MORE THAN FIVE (5) SQUARE FEET ADVERTISING THE PROPERTY FOR SALE OR RENT, OR SIGNS USED BY A BUILDER TO ADVERTISE THE PROPERTY DURING THE CONSTRUCTION AND SALE PERIOD.

SECTION 12. CHILDCARE SERVICES. NO PRE-SCHOOL, BABYSITTING BUSINESS OR SUCH CHILDCARE SERVICES SHALL BE ALLOWED TO OPERATE UPON ANY LOT.

SECTION 13. MINING OPERATION. NO OIL DRILLING, OIL DEVELOPMENT OPERATION, OIL REFINING QUARRYING, OR MINING OPERATIONS OF ANY KIND SHALL BE PERMITTED UPON OR IN ANY LOT NOR SHALL OIL WELLS, TANKS, TENNELS, MINERAL EXCAVATIONS, OR SHAFTS BE PERMITTED UPON OR IN ANY LOT. NO DERRICK OR OTHER STRUCTURE DESIGNED FOR USE IN BORING FOR OIL OR NATURAL GAS SHALL BE ERECTED, MAINTAINED OR PERMITTED UPON ANY LOT.

SECTION 14. ANIMALS. NO ANIMALS, LIVESTOCK, OR POULTRY OF ANY KIND SHALL BE RAISED, BRED OR KEPT ON ANY LOT, EXCEPT THAT DOGS, CATS, OR OTHER HOUSEHOLD PETS MAY BE KEPT PROVIDED THAT THEY ARE NOT BRED, KEPT OR MAINTAINED FOR ANY COMMERCIAL USE AND ARE HOUSED WITHIN THE DWELLING.

SECTION 15. RUBBISH, TRASH, AND GARAGE. RUBBISH, TRASH, GARAGE OR ANY OTHER WASTE SHALL NOT BE ALLOWED TO BE COMPILED, ACCUMULATED OR DUMPED ON ANY LOT. GARBAGE AND TRASH SHALL BE KEPT IN APPROPRIATE CONTAINERS WHICH ARE NOT VISIBLE FROM THE STREET, EXCEPT ON COLLECTION DAY.

SECTION 16. CORNER LOT. NO FENCE, WALL, HEDGE OR SHRUB PLANTING WHICH OBSTRUCTS SIGHT LINES AT ELEVATIONS BETWEEN 2 AND 6 FEET ABOVE ROADWAYS SHALL BE PLACED OR PERMITTED ON ANY CORNER LOT WITHIN THE TRIANGULAR AREA FORMED BY THE STREET PROPERTY LINE AND A LINE CONNECTING THEM AT POINTS 25 FEET FROM THE INTERSECTION OF THE STREET LINES EXTENDED. THE SAME SIGHT LINE LIMITATIONS SHALL APPLY ON ANY LOT WITHIN 10 FEET FROM THE INTERSECTION OF A STREET PROPERTY LINE WITH THE EDGE OF A DRIVEWAY OR ALLEY PAVEMENT. NO TREE SHALL BE PERMITTED TO REMAIN WITHIN SUCH DISTANCES OF SUCH INTERSECTIONS UNLESS THE FOLIAGE LINE IS MAINTAINED AT SUFFICIENT HEIGHT TO PREVENT OBSTRUCTIONS OF SUCH SIGHT LINES.

SECTION 17. FIELD TILES. ANY FIELD TILE OR UNDERGROUND DRAIN WHICH IS ON ANY LOT MUST BE ALLOWED TO PERPETUATE AND ALL OWNERS OF THE LOTS IN THIS SUBDIVISION AND THEIR SUCCESSORS SHALL COMPLY WITH THE INDIANA DRAINAGE CODE OF 1965.

SECTION 18. MINIMUM LIVING SPACE. THE MINIMUM SQUARE FOOTAGE OF LIVING SPACE OF DWELLINGS WITHIN FOX RIDGE, EXCLUSIVE OF PORCHES, GARAGES OR BASEMENTS SHALL BE NO LESS THAN:

- (a) 900 SQUARE FEET FOR A SINGLE STORY DWELLING; AND
- (b) 660 SQUARE FEET ON THE MAIN FLOOR FOR TWO-STORY DWELLINGS.

SECTION 19. OUTBUILDINGS. NO DETACHED GARAGES, SHEDS, BARNs, OR STORAGE BUILDINGS SHALL BE LARGER THAN 120 SQUARE FEET AND MUST BE KEPT PAINTED.

SECTION 20. DRIVEWAYS AND CARPORTS. ALL DRIVEWAYS MUST BE PAVED WITH CONCRETE, ASPHALT OR OTHER ALL-WEATHER SURFACE EXCLUDING GRAVEL. NO CARPORTS ARE PERMITTED.

SECTION 21. COMMUNICATION DEVICES. ANY SATELLITE DISH SHALL BE NO LARGER THAN 20 INCHES IN DIAMETER AND MUST NOT BE LOCATED IN FRONT OR SIDES OF RESIDENCE.

SECTION 22. MAILBOXES. ALL MAILBOXES IN FOX RIDGE SHALL BE UNIFORM IN APPEARANCE. THE STYLE, TYPE AND LOCATION SHALL BE DETERMINED BY THE ARCHITECTURAL CONTROL COMMITTEE (ACC). OWNERS SHALL BE PROHIBITED FROM REMOVING, ALTERING, OR SUBSTITUTING THE MAILBOXES APPROVED BY THE ACC. OWNERS SHALL BE RESPONSIBLE TO KEEP THE MAILBOXES IN A GOOD STATE OF REPAIR AND TO REPLACE THEM WITH A SUBSTANTIALLY IDENTICAL ONE IF NECESSARY.

SECTION 23. CONSTRUCTION, EARTH-MOVING, EXCAVATION. NO CONSTRUCTION, SIGNIFICANT EARTH-MOVING, OR EXCAVATING WORK OF ANY NATURE MAY BE CONDUCTED ON ANY LOT WITHOUT FIRST HAVING ANY DEVELOPMENT PLANS APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE.

SECTION 24. FENCES, WALLS, BARRIERS. ALL FENCES, WALLS, BARRIERS OR LIKE STRUCTURES MUST BE APPROVED IN WRITING BY THE ARCHITECTURAL CONTROL COMMITTEE PRIOR TO CONSTRUCTION. NO SUCH STRUCTURE SHALL BE PLACED CLOSER TO THE FRONT LOT LINE THAN THE FRONT BUILDING SETBACK LINE, AND MUST BE KEPT PAINTED.

SECTION 25. DECORATIVE STRUCTURES. NO DECORATIVE STRUCTURE, STATUE, OR OTHER STRUCTURE MAY BE PLACED ON THE LOT CLOSER TO THE FRONT LOT LINE THAN THE FRONT BUILDING SETBACK LINE.

SECTION 26. SWIMMING POOLS. ABOVE-GROUND SWIMMING POOLS ARE PROHIBITED.

SECTION 27. ALL RESIDENCES ARE TO BRICK OR STONE FRONTS INCLUDING GABLE. RESIDENCES ON CORNER LOTS ARE TO BE BRICK OR STONE ON BOTH STREET SIDES.

SECTION 28. EACH UNIT TO HAVE A POST LAMP WITH DUSK TO DAWN OPERATION. THESE POST LAMPS MUST BE KEPT IN WORKING ORDER AT ALL TIMES. EACH LAMP IS TO BE INSTALLED 10' OFF SIDEWALK.

SECTION 29. EACH UNIT TO HAVE AT LEAST ONE TREE IN THE FRONT YARD. THIS TREE MUST BE EITHER PIN OAK OR HARD MAPLE AND BE AT LEAST 2" DIAMETER.

SECTION 30. ALL UNITS ARE TO BE OWNER OCCUPIED EXCEPT THAT IF A BUILDING IS OWNED BY THE SAME INDIVIDUALS ONE SIDE MAY BE LEASED AS LONG AS THE OWNER LIVES IN THE OTHER SIDE.

ARTICLE IV.

DECLARANT'S/ASSOCIATION'S RIGHT TO GUARANTEE COMPLIANCE

SECTION 1. IN THE EVENT THE OWNER OF ANY LOT IN FOX RIDGE SHALL FAIL TO MAINTAIN THAT LOT OR ANY OF ITS IMPROVEMENTS SITUATED THEREON IN ACCORDANCE WITH THE PROVISIONS OF THESE COVENANTS, THE ASSOCIATION, OR PRIOR TO THE ASSOCIATION'S INCORPORATION, THE DECLARANT, SHALL HAVE THE RIGHT, BUT NOT THE OBLIGATION, BY AND THROUGH ITS AGENTS AND EMPLOYEES OR CONTRACTORS TO ENTER UPON SAID LOT, PERFORM SUCH ACTS AS MAY BE REASONABLY NECESSARY TO MAKE SUCH LOT IMPROVEMENTS THEREON, IF ANY, CONFORM TO THE REQUIREMENTS OF THESE COVENANTS. THE COST THEREOF TO THE ASSOCIATION OR DECLARANT SHALL BE COLLECTED IN ANY REASONABLE MANNER FROM OWNER. THE ASSOCIATION/DECLARANT SHALL NOT BE LIABLE FOR ANY DAMAGE WHICH MAY RESULT FROM ANY MAINTENANCE WORK PERFORMED HEREUNDER AT THE TIME DWELLINGS ARE CONSTRUCTED UPON.

ARTICLE V.

FOX RIDGE ARCHITECTURAL CONTROL COMMITTEE

SECTION 1. APPOINTMENT OF ARCHITECTURAL CONTROL COMMITTEE. THE BOARD OF DIRECTORS OF THE ASSOCIATION, OR DECLARANT IF THE ASSOCIATION IS NOT YET INCORPORATED, SHALL APPOINT THE MEMBERS OF THE ARCHITECTURAL CONTROL COMMITTEE (HEREINAFTER SOMETIMES REFERRED TO AS "ACC"). HOWEVER, INITIALLY THE ARCHITECTURAL CONTROL COMMITTEE SHALL CONSIST OF DON BRENNAN (HEREINAFTER "BRENNAN"). THE TERM BRENNAN, SHALL SERVE AS THE ACC SHALL BE THAT PERIOD OF TIME CONSISTING OF THE SALE AND CONSTRUCTION OF RESIDENTIAL STRUCTURES ON ALL LOTS WITHIN FOX RIDGE. THEREAFTER, THE ACC SHALL CONSIST OF THREE MEMBERS WHO SHALL BE APPOINTED BY THE ASSOCIATION. THE TERM OF ANY ASSOCIATION APPOINTED MEMBER OF THE ACC SHALL BE ONE (1) YEAR IN LENGTH.

SECTION 2. CONSTRUCTION APPROVALS. NO CONSTRUCTION OF ANY BUILDING OR STRUCTURE OF ANY KIND, INCLUDING ADDITIONS, ALTERATIONS, SWIMMING POOLS, FENCES, SCREENS AND WALLS SHALL BEGIN WITHIN FOX RIDGE UNTIL THE PLANS AND SPECIFICATIONS, LOCATIONS AND PLOT PLAN THEREOF, IN DETAIL AND TO SCALE HAVE BEEN SUBMITTED TO AND APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE. THE PLANS AND SPECIFICATIONS OF AND LOCATION OF ALL CONSTRUCTION SHALL BE IN COMPLIANCE WITH ALL APPLICABLE REGULATORY CODES, INCLUDING THOSE RELATING TO BUILDING, PLUMBING, AND ELECTRICAL REQUIREMENTS, AND SHALL ALSO COMPLY TO ALL ZONING COVENANTS AND RESTRICTIONS WHICH ARE APPLICABLE TO THE REAL ESTATE. REFUSAL OF APPROVAL OF PLANS AND SPECIFICATIONS, LOCATION AND PLOT PLAN BY DECLARANT MAY BE BASED ON ANY GROUND, INCLUDING PURELY AESTHETIC GROUNDS, IN THE SOLE AND ABSOLUTE DISCRETION OF THE ARCHITECTURAL CONTROL COMMITTEE. DECLARANT SHALL NOT BE RESPONSIBLE FOR ANY DEFECTS IN SUCH PLANS OR SPECIFICATIONS, OR IN ANY BUILDING OR STRUCTURE ERECTED ACCORDING TO SUCH PLANS AND SPECIFICATIONS.

THE PLANS AND SPECIFICATION SUBMITTED TO DECLARANT SHALL CONTAIN A PLOT PLAN TO SCALE WITH ADEQUATE PROVISION FOR LANDSCAPING, INCLUDING THE PLANTING OF TREES AND SHRUBS. THE DETERMINATION OF WHETHER ADEQUATE PROVISION HAS BEEN MADE FOR LANDSCAPING SHALL BE AT THE SOLE DISCRETION OF THE ARCHITECTURAL CONTROL COMMITTEE. THE REQUIRED LANDSCAPING AND DRIVEWAYS SHALL BE COMPLETE AT THE TIME OF COMPLETION OF THE BUILDING, OR AS SOON AS WEATHER AND SEASON PERMIT. DECLARANT SHALL NOT BE RESPONSIBLE FOR ANY DEFECTS IN SUCH PLANS OR SPECIFICATIONS, OR IN ANY BUILDING OR STRUCTURE ERECTED ACCORDING TO SUCH PLANS AND SPECIFICATIONS.

SECTION 3. DUTIES OF COMMITTEE. THE COMMITTEE SHALL APPROVE OR DISAPPROVE PROPOSED IMPROVEMENTS WITHIN THIRTY (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 THEREFOR.

SECTION 4. LIABILITY OF COMMITTEE. NEITHER THE COMMITTEE NOR ANY AGENT THEREOF, NOR DECLARANT, 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.

SECTION 5. INSPECTION. THE COMMITTEE OR ITS AGENTS MAY INSPECT WORK BEING PERFORMED TO ASSURE COMPLIANCE WITH THE APPROVED PLANS AND THIS DECLARATION.

ARTICLE VI.

COVENANTS FOR MAINTENANCE ASSESSMENTS

SECTION 1. PURPOSE OF THE ASSESSMENTS. THE ASSESSMENTS LEVIED BY THE ASSOCIATION SHALL BE USED EXCLUSIVELY FOR THE PURPOSE OF PRESERVING THE VALUE OF THE LOTS WITHIN FOX RIDGE AND PROMOTING THE HEALTH, SAFETY, AND WELFARE OF THE OWNERS, USERS, AND OCCUPANTS OF THE SAME AND, IN PARTICULAR, FOR THE IMPROVEMENT, FENCING, OPERATING, AND MAINTENANCE OF THE LANDSCAPE EASEMENTS AND DRAINAGE SYSTEM, INCLUDING, BUT NOT LIMITED TO, THE PAYMENT OF TAXES AND INSURANCE THEREON AND FOR THE COSTS OF LABOR, EQUIPMENT, MATERIAL, AND MANAGEMENT FURNISHED WITH RESPECT TO THE LANDSCAPE EASEMENTS. EACH OWNER HEREBY COVENANTS AND AGREES TO PAY THE ASSOCIATION:

- (a) A PRO-RATA SHARE (AS HEREINAFTER DEFINED) OF THE ANNUAL ASSESSMENTS FIXED, ESTABLISHED, AND DETERMINED FROM TIME TO TIME AS HEREINAFTER PROVIDED; AND
- (b) A PRO-RATA SHARE (AS HEREINAFTER DEFINED) OF ANY SPECIAL ASSESSMENTS FIXED, ESTABLISHED, AND DETERMINED FROM TIME TO TIME, AS HEREINAFTER PROVIDED.

SECTION 2. LIABILITY FOR ASSESSMENTS. ALL ASSESSMENTS SHALL BE A PRIOR LIEN ON THE LOTS WITH RESPECT TO WHICH SAID ASSESSMENTS ARE IN FAVOR OF THE ASSOCIATION, SUBJECT AND SUBORDINATE ONLY TO TAXES, MUNICIPAL LIENS, AND TO THE LIEN OF ANY BONA FIDE MORTGAGE UPON ANY LOT, AND AT THE OPTION OF THE ASSOCIATION ASSESSMENTS MAY BE FORECLOSED UPON IN ANY COURT OF COMPETENT JURISDICTION BY THE ASSOCIATION AS PLAINTIFF FOR THE AMOUNT OF THE ASSESSMENT WITH INTEREST, ATTORNEY'S FEES AND COSTS. ANY JUDGMENT OBTAINED SHALL BE WITHOUT RELIEF FROM VALUATION OR APPRAISEMENT LAWS. 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. HOWEVER, THE SALE OR TRANSFER OF ANY LOT PURSUANT TO MORTGAGE FORECLOSURE OR ANY PROCEEDING IN LIEU THEREOF, SHALL EXTINGUISH THE LIEN OR SUCH ASSESSMENTS AS TO PAYMENTS WHICH BECAME DUE PRIOR TO SUCH SALE OR TRANSFER. NO SALE OR TRANSFER SHALL RELIEVE SUCH LOT FROM LIABILITY FOR ANY ASSESSMENTS THEREAFTER BECOMING DUE OR FROM THE LIEN THEREOF.

SECTION 3. PRO-RATA SHARE. THE PRO-RATA SHARE OF EACH OWNER FOR PURPOSES OF THIS ARTICLE SHALL BE THE PERCENTAGE OBTAINED BY DIVIDING ONE BY THE TOTAL NUMBER OF LOTS WITHIN FOX RIDGE THAT HAVE BEEN CONVEYED BY THE DECLARANT TO AN OWNER ("PRO-RATA SHARE").

SECTION 4. BASIS OF ANNUAL ASSESSMENT. THE BOARD OF DIRECTORS OF THE ASSOCIATION SHALL ESTABLISH AN ANNUAL BUDGET PRIOR TO THE BEGINNING OF EACH FISCAL YEAR, SETTING FORTH ALL COMMON EXPENSES FOR THE COMING FISCAL YEAR, TOGETHER WITH A REASONABLE ALLOWANCE FOR CONTINGENCIES AND RESERVES OF THE ASSOCIATION. A COPY OF THIS BUDGET SHALL BE DELIVERED TO EACH OWNER WITHIN THIRTY (30) DAYS TO THE BEGINNING OF EACH FISCAL YEAR OF THE ASSOCIATION.



SECTION 5. BASIS OF SPECIAL ASSESSMENT. SHOULD THE BOARD OF DIRECTORS OF THE ASSOCIATION AT ANY TIME DURING THE FISCAL YEAR DETERMINE THAT THE ASSESSMENTS LEVIED WITH RESPECT TO SUCH YEAR ARE INSUFFICIENT TO PAY THE COMMON EXPENSES FOR SUCH YEAR, THE BOARD OF DIRECTORS OF THE ASSOCIATION MAY, AT ANY TIME, AND FROM TIME TO TIME, LEVY SPECIAL ASSESSMENTS AS IT MAY DEEM NECESSARY FOR MEETING THE COMMON EXPENSES. IN ADDITION, THE BOARD OF DIRECTORS OF THE ASSOCIATION SHALL HAVE THE RIGHT TO LEVY AT ANY TIME, AND FROM TIME TO TIME, ONE OR MORE SPECIAL ASSESSMENTS FOR THE PURPOSE OF DEFRAYING, IN WHOLE, OR IN PART ANY UNANTICIPATED COMMON EXPENSE NOT PROVIDED FOR BY THE ANNUAL ASSESSMENT.

SECTION 6. NOTICE OF MEETINGS. WRITTEN NOTICE OF ANY MEETING CALLED FOR THE PURPOSE OF TAKING ACTION TO AUTHORIZE ASSESSMENTS SHALL BE SENT TO ALL MEMBERS NOT LESS THAN THIRTY (30) DAYS NOR MORE THAN SIXTY (60) DAYS IN ADVANCE OF THE MEETING.

SECTION 7. FISCAL YEAR; DATE OF COMMENCEMENT OF ASSESSMENTS; DUE DATES. THE FISCAL YEAR OF THE ASSOCIATION SHALL BE ESTABLISHED BY THE ASSOCIATION AND MAY BE CHANGED FROM TIME TO TIME BY ACTION OF THE ASSOCIATION. THE ANNUAL ASSESSMENT PROVIDED FOR HEREIN SHALL COMMENCE AS TO ALL LOTS ON THE FIRST DAY OF THE MONTH FOLLOWING THE DAY 75% OF THE LOTS HAVE BEEN SOLD. DECLARANT SHALL BE RESPONSIBLE FOR ALL COMMON EXPENSES PRIOR TO SAID DATE. THE FIRST ANNUAL ASSESSMENT FOR EACH LOT SHALL BE PRO-RATED FOR THE BALANCE OF THE FISCAL YEAR OF THE ASSOCIATION IN WHICH SUCH ASSESSMENT IS MADE. THE ANNUAL ASSESSMENT FOR EACH YEAR AFTER THE FIRST ASSESSMENT YEAR SHALL BE DUE AND PAYABLE ON THE FIRST DAY OF EACH FISCAL YEAR OF THE ASSOCIATION. ANNUAL ASSESSMENTS SHALL BE DUE AND PAYABLE IN FULL AS OF THE ABOVE DATE, EXCEPT THAT THE ASSOCIATION MAY FROM TIME TO TIME BY RESOLUTION AUTHORIZE THE PAYMENT OF SUCH ASSESSMENTS IN INSTALLMENTS.

SECTION 8. DUTIES OF THE ASSOCIATION.

(a) THE BOARD OF DIRECTORS OF THE ASSOCIATION SHALL CAUSE PROPER BOOKS AND RECORDS OF THE LEVY AND COLLECTION OF EACH ANNUAL AND SPECIAL ASSESSMENT TO BE KEPT AND MAINTAINED, INCLUDING A ROSTER SETTING FORTH THE IDENTIFICATION OF EACH AND EVERY LOT AND EACH ASSESSMENT APPLICABLE THERETO, WHICH BOOKS AND RECORDS SHALL BE KEPT IN THE OFFICE OF THE ASSOCIATION AND SHALL BE AVAILABLE FOR THE INSPECTION AND COPYING BY EACH OWNER (OR DULY AUTHORIZED REPRESENTATIVE OF ANY OWNER) AT ALL REASONABLE TIMES DURING REGULAR BUSINESS HOURS OF THE ASSOCIATION. THE BOARD OF DIRECTORS OF THE ASSOCIATION SHALL CAUSE WRITTEN NOTICE OF ALL ASSESSMENTS LEVIED BY THE ASSOCIATION UPON THE LOTS AND UPON THE OWNERS TO BE MAILED TO THE OWNERS OR THEIR DESIGNATED REPRESENTATIVES AS PROMPTLY AS PRACTICABLE AND IN THE EVENT NOT LESS THAN THIRTY (30) DAYS PRIOR TO THE DUE DATE OF SUCH ASSESSMENT OR ANY INSTALLMENT THEREOF. IN THE EVENT SUCH NOTICE IS MAILED LESS THAN THIRTY (30) DAYS PRIOR TO THE DUE DATE OF THE ASSESSMENT TO WHICH SUCH NOTICE PERTAINS, PAYMENT OF SUCH ASSESSMENT SHALL NOT BE DEEMED PAST DUE FOR ANY PURPOSE IF PAID BY THE OWNER WITHIN THIRTY (30) DAYS AFTER THE DATE OF ACTUAL MAILING OF SUCH NOTICE.

(b) THE ASSOCIATION SHALL PROMPTLY FURNISH TO ANY OWNER OR MORTGAGEE UPON REQUEST A CERTIFICATE IN WRITING SIGNED BY AN OFFICER OF THE ASSOCIATION, SETTING FORTH THE EXTENT TO WHICH ASSESSMENT HAVE BEEN LEVIED AND PAID WITH RESPECT TO SUCH REQUESTING OWNER'S OR MORTGAGEE'S LOT. AS TO ANY PERSONS RELYING THEREON, SUCH CERTIFICATION SHALL BE CONCLUSIVE EVIDENCE OF PAYMENT OF ANY ASSESSMENTS THEREIN STATED TO HAVE BEEN PAID.

(c) THE ASSOCIATION SHALL NOTIFY ANY MORTGAGEE FROM WHICH IT HAS RECEIVED A WRITTEN REQUEST FOR NOTICE OF ANY DEFAULT IN THE PERFORMANCE BY ANY OWNER OF ANY OBLIGATION UNDER THE BY-LAWS OR THIS DECLARATION WHICH IS NOT CURED WITHIN SIXTY (60) DAYS.

(d) THE ASSOCIATION SHALL, UPON NOTIFICATION OF CONVEYANCE OF A LOT OR INTEREST THEREIN, PROVIDE A COPY OF THIS DECLARATION TO THE PERSONS OR ENTITIES RECEIVING SAID INTEREST.

SECTION 9. ADJUSTMENTS. IN THE EVENT THAT THE AMOUNTS ACTUALLY EXPENDED BY THE ASSOCIATION FOR COMMON EXPENSES IN ANY FISCAL YEAR EXCEED THE AMOUNTS BUDGETED AND ASSESSED FOR COMMON EXPENSES FOR THAT FISCAL YEAR, THE AMOUNT OF SUCH DEFICIT SHALL BE CARRIED OVER AND BECOME AN ADDITIONAL BASIS FOR ASSESSMENTS FOR THE FOLLOWING FISCAL YEAR. SUCH DEFICIT MAY BE RECOUPED EITHER BY INCLUSION IN THE BUDGET FOR ANNUAL ASSESSMENTS OR BY THE MAKING OF ONE OR MORE SPECIAL ASSESSMENTS FOR SUCH PURPOSE, AT THE OPTION OF THE ASSOCIATION. IN THE EVENT THAT THE AMOUNTS BUDGETED AND ASSESSED FOR COMMON EXPENSES IN ANY FISCAL YEAR EXCEED THE AMOUNT ACTUALLY EXPENDED BY THE ASSOCIATION FOR COMMON EXPENSES FOR THAT FISCAL YEAR, A PRO-RATA SHARE OF SUCH EXCESS SHALL BE A CREDIT AGAINST THE ASSESSMENT(S) DUE FROM EACH OWNER FOR THE NEXT FISCAL YEAR(S).

#### ARTICLE VII.

##### ORGANIZATION AND DUTIES OF ASSOCIATION

SECTION 1. ORGANIZATION OF ASSOCIATION. THE ASSOCIATION SHALL BE ORGANIZED AS A NOT-FOR-PROFIT CORPORATION UNDER THE LAWS OF THE STATE OF INDIANA, TO BE OPERATED IN ACCORDANCE WITH THE FOX RIDGE HOMEOWNERS ASSOCIATION, INC. ARTICLES OF INCORPORATION, CODE OF BY-LAWS AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS WHICH HAVE BEEN FILED OR WILL BE FILED BY DECLARANT.

SECTION 2. MEMBERSHIP. THE MEMBERS OF THE ASSOCIATION SHALL CONSIST OF THE DECLARANT AND THE OWNERS OF LOTS IN FOX RIDGE PROVIDED THAT, IN THE EVENT THAT ANY ONE LOT SHALL BE OWNED BY MORE THAN ONE PERSON, PARTNERSHIP, TRUST, CORPORATION OR OTHER ENTITY, THEY SHALL BE TREATED COLLECTIVELY AS ONE MEMBER FOR VOTING PURPOSES.

THE ASSOCIATION SHALL HAVE TWO CLASSES OF VOTING MEMBERSHIP:

CLASS A. CLASS A MEMBERS SHALL BE ALL OWNERS WITH THE EXCEPTION OF THE DECLARANT AND SHALL BE ENTITLED TO ONE VOTE FOR EACH LOT OWNED. WHEN MORE THAN ONE PERSON HOLDS AN INTEREST IN ANY LOT, ALL SUCH PERSONS SHALL BE MEMBERS. THE VOTE FOR SUCH LOT SHALL BE EXERCISED AS THEY AMONGST THEMSELVES DETERMINE, BUT IN NO EVENT SHALL MORE THAN ONE VOTE BE CAST WITH RESPECT TO ANY LOT.

CLASS B. THE CLASS B MEMBERS SHALL BE THE DECLARANT, WHO SHALL BE ENTITLED TO THREE (3) VOTES FOR EACH LOT OWNED, AND THE FIRST BOARD OF DIRECTORS DURING THEIR RESPECTIVE TERMS, WHO SHALL HAVE NO VOTING RIGHTS. THE CLASS B MEMBERSHIP SHALL CEASE AND BE CONVERTED TO CLASS A MEMBERSHIP ON THE HAPPENING OF EITHER OF THE FOLLOWING EVENTS, WHICHEVER OCCURS EARLIER:

(a) WHEN THE TOTAL VOTES OUTSTANDING IN THE CLASS A MEMBERSHIP EQUAL THE TOTAL VOTES OUTSTANDING IN THE CLASS B MEMBERSHIP; OR

(b) ON JANUARY 1, 2002.

SECTION 3. BOARD OF DIRECTORS. THE MEMBERS SHALL ELECT A BOARD OF DIRECTORS OF THE ASSOCIATION AS PRESCRIBED BY THE BY-LAWS. THE BOARD OF DIRECTORS SHALL MANAGE THE AFFAIRS OF THE ASSOCIATION.

SECTION 4. BOARD MEMBERS. INITIALLY, THE BOARD OF DIRECTORS SHALL CONSIST OF TWO MEMBERS, THOSE PERSONS BEING DON BRENNAN, AND JUANNA BRENNAN (HEREINAFTER REFERRED TO AS INITIAL BOARD). THE INITIAL BOARD SHALL SERVE AS SAID BOARD MEMBERS UNTIL 75% OF THE LOTS IN FOX RIDGE HAVE BEEN SOLD AND DEVELOPED. THEREAFTER, THE BOARD SHALL CONSIST OF SIX MEMBERS WHO SHALL BE ASSOCIATION MEMBERS AND TO BE ELECTED BY THE ASSOCIATION MEMBERSHIP. EACH BOARD MEMBER SHALL SERVE A TWO YEAR TERM. HOWEVER, THE FIRST BOARD MEMBERS ELECTED BY THE ASSOCIATION SHALL SERVE TERMS AS FOLLOWS:

(a) 2 NEWLY ELECTED BOARD MEMBERS SHALL SERVE ONE YEAR TERMS

(b) 2 NEWLY ELECTED BOARD MEMBERS SHALL SERVE TWO YEAR TERMS

(c) 2 NEWLY ELECTED BOARD MEMBERS SHALL SERVE THREE YEAR TERMS

ALL SUBSEQUENT BOARD MEMBERS SHALL SERVE TWO YEAR TERMS.

SECTION 5. GENERAL DUTIES OF THE ASSOCIATION. THE ASSOCIATION IS HEREBY AUTHORIZED TO ACT AND SHALL ACT ON BEHALF OF, AND IN THE NAME OF, PLACE AND STEAD OF, THE INDIVIDUAL OWNERS IN ALL MATTERS PERTAINING TO THE MAINTENANCE, REPAIR AND REPLACEMENT, OF THE COMMON AREAS, THE DETERMINATION OF COMMON EXPENSES, THE COLLECTION OF ANNUAL AND SPECIAL ASSESSMENTS, AND THE GRANTING OF ANY APPROVALS WHENEVER AND TO THE EXTENT CALLED FOR BY THIS DECLARATION, FOR THE COMMON BENEFIT OF ALL SUCH OWNERS. THE ASSOCIATION SHALL ALSO HAVE THE RIGHT, BUT NOT THE OBLIGATION, TO ACT ON BEHALF OF ANY OWNER OR OWNERS IN SEEKING ENFORCEMENT OF THE TERMS, COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN THIS DECLARATION.

SECTION 6. LIABILITY OF ASSOCIATION. NEITHER THE ASSOCIATION NOR ITS DIRECTORS, OFFICERS OR AUTHORIZED AGENTS SHALL HAVE ANY LIABILITY WHATSOEVER TO ANY OWNER FOR ANY ACTION TAKEN UNDER COLOR OR AUTHORITY OF THIS DECLARATION, OR FOR ANY FAILURE TO TAKE ANY ACTION CALLED FOR BY THIS DECLARATION, UNLESS SUCH ACT OR FAILURE TO ACT IS IN THE NATURE OF WILLFUL OR RECKLESS DISREGARD OF THE RIGHTS OF THE OWNERS OR IN THE NATURE OF THE WILLFUL, INTENTIONAL, FRAUDULENT, OR RECKLESS MISCONDUCT.

SECTION 7. AMENDMENT OF DECLARATION. THE ASSOCIATION SHALL HAVE THE RIGHT TO AMEND THIS DECLARATION AT ANY TIME, AND FROM TIME TO TIME, UPON THE RECOMMENDATION OF AN AMENDMENT TO THE ASSOCIATION BY ITS BOARD OF DIRECTORS AND THE SUBSEQUENT APPROVAL OF SUCH AMENDMENT BY BOTH OWNERS OF AT LEAST TWO-THIRDS OF THE LOTS AND THE MORTGAGEES OF AT LEAST TWO-THIRDS MORTGAGEES REQUESTED NOTICE OF SAID ACTION; PROVIDED, HOWEVER, THAT ANY SUCH AMENDMENT OF THIS DECLARATION SHALL REQUIRE PRIOR WRITTEN APPROVAL OF THE DECLARANT SO LONG AS DECLARANT OWNS AT LEAST FOUR LOTS WITHIN FOX RIDGE. EACH SUCH AMENDMENT MUST BE EVIDENCED BY A WRITTEN INSTRUMENT, SIGNED AND ACKNOWLEDGED BY DULY AUTHORIZED OFFICERS OF THE ASSOCIATION, AND BY DECLARANT WHEN ITS APPROVAL IS REQUIRED, SETTING FORTH THE FACTS SUFFICIENT TO INDICATE COMPLIANCE WITH THE COPY OF THE MINUTES OF THE ASSOCIATION MEETING AT WHICH THE NECESSARY ACTIONS WERE TAKEN, AND SUCH AMENDMENTS SHALL NOT BE EFFECTIVE UNTIL RECORDED IN THE OFFICE OF THE RECORDER OF MARION COUNTY. AS LONG AS THERE IS A CLASS B MEMBERSHIP, THE FOLLOWING ACTIONS WILL REQUIRE THE PRIOR APPROVAL OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OR THE DEPARTMENT OF VETERANS AFFAIRS: ANNEXATION OF ADDITIONAL PROPERTIES, DEDICATION OF COMMON AREA, AND AMENDMENT OF THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS.

IT WITNESS WHEREOF, THE DECLARANT HAS CAUSED THIS DECLARATION TO BE AMENDED ON THE DATE FIRST ABOVE WRITTEN.

SECTION 8. INSURANCE. THE ASSOCIATION SHALL MAINTAIN IN FORCE ADEQUATE PUBLIC LIABILITY INSURANCE PROTECTING THE ASSOCIATION AGAINST LIABILITY FOR PROPERTY DAMAGE AND PERSONAL INJURY WITH THE AMOUNT OF SUCH COVERAGE IN NO EVENT TO BE LESS THAN ONE MILLION DOLLARS (\$1,000,000.00) FOR ANY SINGLE OCCURRENCE, OCCURRING ON OR IN CONNECTION WITH ANY AND ALL COMMON AREAS AND LANDSCAPE EASEMENTS. THE ASSOCIATION SHALL ALSO MAINTAIN IN FORCE ADEQUATE INSURANCE, INSURING ALL COMMON PROPERTY AGAINST WINDSTORM, VANDALISM, AND SUCH OTHER HAZARDS AS MAY BE INSURABLE UNDER STANDARD "EXTENDED COVERAGE" PROVISIONS IN AN AMOUNT SUFFICIENT TO COVER ANY FORESEEABLE MAINTENANCE, REMOVAL OR REPLACEMENT COSTS IN THE EVENT OF DAMAGE ATTRIBUTABLE TO SUCH HAZARDS. THE ASSOCIATION SHALL NOTIFY ALL MORTGAGEES WHICH HAVE REQUESTED NOTICE OF ANY LAPSE, CANCELLATION, OR MATERIAL MODIFICATION OF ANY INSURANCE POLICY. ALL POLICIES OF INSURANCE SHALL CONTAIN AN ENDORSEMENT OR CLAUSE WHEREBY THE INSURER WAIVES ANY RIGHT TO BE SUBROGATED TO ANY CLAIM AGAINST THE ASSOCIATION, ITS OFFICERS, BOARD MEMBERS, THE DECLARANT, ANY PROPERTY MANAGER, THEIR RESPECTIVE EMPLOYEES AND AGENTS, THE LOT OWNERS AND OCCUPANTS, AND ALSO WAIVES ANY DEFENSES BASED ON CO-INSURANCE OR ON INVALIDITY ARISING FROM ACTS OF THE INSURED, AND SHALL COVER CLAIMS OF ONE OR MORE INSURED PARTIES AGAINST OTHER INSURED PARTIES.

THE ASSOCIATION SHALL MAINTAIN A FIDELITY BOND INDEMNIFYING THE ASSOCIATION, THE BOARD OF DIRECTORS AND THE OWNERS FOR LOSS OF FUNDS RESULTING FROM FRAUDULENT OR DISHONEST ACTS OF ANY DIRECTOR, OFFICER, EMPLOYEE OR ANYONE WHO EITHER HANDLES OR IS RESPONSIBLE FOR FUNDS HELD OR ADMINISTERED BY THE ASSOCIATION, WHETHER OR NOT THEY RECEIVE COMPENSATION FOR THEIR SERVICES. THE FIDELITY BOND SHOULD COVER THE MAXIMUM AMOUNT OF FUNDS WHICH WILL BE IN THE CUSTODY OF THE ASSOCIATION OR ITS MANAGEMENT AGENT AT ANY TIME, BUT IN NO EVENT SHALL SUCH FIDELITY BOND COVERAGE BE LESS THAN THE SUM OF THREE (3) MONTHS' ASSESSMENTS ON ALL LOTS IN FOX RIDGE, PLUS THE ASSOCIATION'S RESERVE FUNDS.

THE ASSOCIATION SHALL CAUSE ALL INSURANCE POLICIES AND FIDELITY BONDS TO PROVIDE AT LEAST TEN (10) DAYS WRITTEN NOTICE TO THE ASSOCIATION, AND ALL MORTGAGEES WHO HAVE REQUESTED SUCH NOTICE, BEFORE THE INSURANCE POLICIES OR FIDELITY BONDS CAN BE CANCELED OR SUBSTANTIALLY MODIFIED FOR ANY REASON. THE ASSOCIATION SHALL CAUSE THE PROVISIONS OF ALL INSURANCE POLICIES AND FIDELITY BONDS TO COMPLY WITH THE FEDERAL NATIONAL MORTGAGE ASSOCIATION LENDING GUIDE CHAPTER 3, PART 5, AS ESTABLISHED ON JANUARY 3, 1983, AS AMENDED ON JUNE 30, 1983, OR AS SUCH GUIDELINES MAY BE AMENDED THEREAFTER.

#### ARTICLE VIII.

##### GENERAL PROVISIONS

SECTION 1. COVENANTS RUN WITH THE LAND. THE COVENANTS CREATED BY THIS DECLARATION SHALL ATTACH TO AND RUN WITH THE REAL ESTATE AND SHALL BE BINDING UPON EVERY PERSON WHO MAY HEREAFTER COME INTO OWNERSHIP, OCCUPANCY OR POSSESSION OF ANY PORTION OF THE REAL ESTATE.

SECTION 2. SCOPE OF COVENANTS. DECLARANT AND EACH OWNER OF ANY LOT BY ACCEPTANCE OF A DEED THEREFORE, WHETHER OR NOT IT SHALL BE EXPRESSED IN SUCH DEED, ARE DEEMED TO HAVE AGREED TO EACH AND EVERY ONE OF THE VARIOUS TERMS, COVENANTS, AND CONDITIONS, CONTAINED IN THIS DECLARATION, AND THE SAME SHALL BE OF MUTUAL AND RECIPROCAL BENEFIT TO DECLARANT AND EACH OWNER OF EACH LOT. DECLARANT AND EACH OWNER SHALL BE ENTITLED TO ENFORCE THIS DECLARATION AGAINST ANY OWNER TO THE FULL EXTENT PERMITTED HEREIN AND UNDER APPLICABLE LAW AND SHALL HAVE ALL RIGHTS AND REMEDIES FOR SUCH ENFORCEMENT AT LAW OR IN EQUITY. EACH OWNER SHALL BE LIABLE FOR SUCH ENFORCEMENT AT LAW OR IN EQUITY. EACH OWNER SHALL BE LIABLE FOR ANY FAILURE TO FULLY COMPLY WITH ALL OF THE TERMS, COVENANTS, AND CONDITIONS, CONTAINED IN THIS DECLARATION ONLY SO LONG AS EACH SUCH OWNER SHALL HAVE ANY INTEREST IN ANY LOT; PROVIDED, HOWEVER, THAT THE RELINQUISHING OF ALL SUCH INTEREST SHALL NOT OPERATE TO RELEASE ANY OWNER FROM LIABILITY FOR A FAILURE TO COMPLY WITH THIS DECLARATION WHICH OCCURRED WHILE SAID OWNER HAS SUCH INTEREST.

SECTION 3. ATTORNEYS' FEES. AS TO ANY LEGAL OR EQUITABLE PROCEEDINGS FOR THE ENFORCEMENT OF, OR TO RESTRAIN THE VIOLATION OF, THIS DECLARATION OR ANY PROVISION THEREOF, IF THE PARTY BRINGING SUCH ACTION IS SUCCESSFUL IN OBTAINING ANY REMEDY AGAINST ANY DEFAULTING OWNER, SUCH DEFAULTING OWNER SHALL PAY THE REASONABLE ATTORNEYS' FEES OF SUCH SUCCESSFUL PARTY, IN SUCH AMOUNT AS MAY BE FIXED BY THE COURT IN SUCH PROCEEDINGS.

SECTION 4. FAILURE TO ENFORCE NOT A WAIVER OF RIGHTS. THE FAILURE OF DECLARANT, THE ASSOCIATION, OR ANY OWNER TO ENFORCE ANY TERM, COVENANT, OR CONDITION, HEREIN CONTAINED SHALL IN NO EVENT BE DEEMED TO BE A WAIVER OF THE RIGHT TO DO SO THEREAFTER, NOR OF THE RIGHT TO ENFORCE ANY OTHER SUCH TERM, COVENANT OR CONDITION.

SECTION 5. RIGHTS OF MORTGAGEES. EXCEPT TO THE EXTENT OTHERWISE PROVIDED IN ARTICLE VII NO BREACH OF THIS DECLARATION SHALL DEFEAT OR RENDER INVALID THE LIEN OF ANY MORTGAGE NOW OR HEREAFTER EXECUTED UPON ANY PORTION OF THE REAL ESTATE; PROVIDED, HOWEVER, THAT IF ALL OR ANY PORTION OF SAID REAL ESTATE IS SOLD UNDER A FORECLOSURE OF ANY MORTGAGE, ANY PURCHASER AT SUCH SALE AND HIS SUCCESSORS AND ASSIGNS SHALL HOLD ANY AND ALL LAND SO PURCHASED SUBJECT TO THIS DECLARATION. THE PROVISIONS OF ARTICLE VIII HEREINABOVE NOTWITHSTANDING, NEITHER THE OWNERS NOR THE ASSOCIATION SHALL HAVE ANY RIGHT TO MAKE ANY AMENDMENT TO THIS DECLARATION WHICH MATERIALLY IMPAIRS THE RIGHTS OF ANY MORTGAGEE HOLDING, INSURING, OR GUARANTEEING ANY MORTGAGE ON ALL OR ANY PORTION OF THE REAL ESTATE AT THE TIME OF SUCH AMENDMENT.

SECTION 6. EFFECT OF INVALIDATION. IF ANY PROVISION OF THIS DECLARATION IS HELD TO BE INVALID BY ANY COURT, THE INVALIDITY OF SUCH PROVISION SHALL NOT AFFECT THE VALIDITY OF THE REMAINING PROVISIONS THEREOF.

SECTION 7. SECTION HEADINGS. SECTION HEADINGS USED HEREIN ARE USED FOR CONVENIENCE ONLY AND ARE NOT INTENDED TO BE A PART OF THIS DECLARATION OR IN ANY WAY TO DEFINE, LIMIT, OR DESCRIBE THE SCOPE AND INTENT OF THE PARTICULAR SECTIONS TO WHICH THEY REFER.

SECTION 8. NOTICES. ALL NOTICES IN CONNECTION WITH THIS DECLARATION SHALL BE MADE IN WRITING AND SHALL BE DEEMED DELIVERED (a) UPON PERSONAL DELIVERY TO THE INDIVIDUAL PERSON, IF ANY, DESIGNATED IN WRITING BY THE OWNER, AS LISTED IN THE ROSTER OF OWNER'S NAMES AND ADDRESSES REFERRED TO IN ARTICLE VII; OR (b) SEVENTY-TWO (72) HOURS AFTER THE DEPOSIT THEREOF IN ANY UNITED STATES MAIN OR BRANCH POST OFFICE, FIRST CLASS POSTAGE PREPAID, PROPERLY ADDRESSED TO THE ADDRESSEE THEREOF AT THE ADDRESS LISTED IN THE SAID ROSTER.

SECTION 9. LIMITATIONS AND DECLARANT'S RIGHTS. ANY NOTICE TO OR APPROVAL BY DECLARANT UNDER ANY PROVISION OF THIS DECLARATION SHALL NOT BE NECESSARY AFTER SUCH TIME AS DECLARANT OWNS FEWER THAN FOUR (4) LOTS WITHIN FOX RIDGE.

SECTION 10. DEED CLAUSE TO IMPLEMENT DECLARATION. EACH OWNER COVENANTS AND AGREES THAT IT WILL NOT EXECUTE OR DELIVER ANY DEED OR CONVEYANCE OF A FEE TITLE INTEREST IN ANY LOT, OR ANY PORTION THEREOF, UNLESS SUCH DEED OR CONVEYANCE CONTAINS A CLAUSE SUBSTANTIALLY AS FOLLOWS:

"BY ACCEPTANCE AND RECORDING OF THIS CONVEYANCE, THE GRANTEE HEREIN COVENANTS AND AGREES TO BE BOUND BY THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FOX RIDGE PERTAINING TO THE REAL ESTATE HEREBY GRANTED, WHICH IS RECORDED IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA",

AND PROPERLY IDENTIFYING THE RECORDING INSTRUMENT NUMBER THEREIN. HOWEVER, THE FAILURE TO INCLUDE SUCH CLAUSE SHALL NOT HAVE ANY EFFECT ON THIS DECLARATION OR THE ENFORCEABILITY THEREOF AGAINST OWNER OF ANY INTEREST IN ANY PORTION OF THE REAL ESTATE.

SECTION 11. PROVISIONS AGAINST MERGER. DECLARANT HEREBY INTENDS THAT THE REAL ESTATE SHALL BE SUBJECT TO THIS DECLARATION, THAT THE COVENANTS CONTAINED HEREIN SHALL NOT BE MERGED INTO THE TITLE OF THE DECLARANT REGARDLESS OF WHETHER DECLARANT IS THE FEE TITLE OWNER OF ALL OR ANY PART OF THE REAL ESTATE AT THE TIME THIS DECLARATION IS EXECUTED OR RECORDED.

SECTION 12. RESERVATIONS OF DECLARANT. THE PROVISIONS OF ARTICLE VII HEREOF NOTWITHSTANDING, DECLARANT HEREBY RESERVES THE RIGHT TO MAKE SUCH AMENDMENTS TO THIS DECLARATION AS MAY BE DEEMED NECESSARY OR APPROPRIATE BY DECLARANT, SO LONG AS DECLARANT OWNS AT LEAST FOUR (4) LOTS WITHIN FOX RIDGE, WITHOUT THE APPROVAL OR CONSENT OF THE OWNERS OR MORTGAGEES OF THE LOTS; PROVIDED THAT DECLARANT SHALL NOT BE ENTITLED TO MAKE ANY AMENDMENT WHICH HAS MATERIALLY ADVERSE EFFECT ON THE RIGHTS OF ANY MORTGAGEE, NOR WHICH SUBSTANTIALLY IMPAIRS THE BENEFITS OF THIS DECLARATION TO ANY OWNER, OR SUBSTANTIALLY INCREASES THE OBLIGATIONS IMPOSED BY THIS DECLARATION ON ANY OWNER.

SECTION 13. TRANSFER OF CONTROL OF OWNER'S ASSOCIATION. DECLARANT SHALL TRANSFER CONTROL OF THE OWNER'S ASSOCIATION TO THE LOT OWNERS FREE AND CLEAR OF ENCUMBRANCES NO LATER THAN THE EARLIER OF (a) FOUR (4) MONTHS AFTER THREE-FOURTHS (3/4) OF THE LOTS HAVE BEEN CONVEYED TO LOT PURCHASERS OR (b) SEVEN (7) YEARS AFTER THE FIRST LOT IS CONVEYED.

IN WITNESS WHEREOF, THE DECLARANT HAS CAUSED THIS DECLARATION TO BE EXECUTED ON THE DATE FIRST ABOVE WRITTEN.

"DECLARANT"  
DONALD W. BRENNAN

BY: Donald W. Brennan

Donald W. Brennan, Owner  
(NAME AND TITLE PRINTED)

STATE OF INDIANA     )  
                                  ) SS:  
COUNTY OF MARION    )

BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED DONALD W. BRENNAN, WHO ACKNOWLEDGED THE EXECUTION OF THE FOREGOING, AND WHO HAVING BEEN DULY SWORN UPON HIS OATH, STATED THAT THE REPRESENTATIONS THEREIN CONTAINED ARE TRUE.

Linda K. Fox

NOTARY PUBLIC, Linda K. Fox  
RESIDENT OF marion COUNTY, IN  
COMMISSION EXPIRES: 03-12-2001

