

# Garden Walk-Marion

The undersigned, WALLACE E. JOHNSON ENTERPRISES, INC., a Tennessee corporation, authorized to do business in the State of Indiana, by Roland Maddox, its Executive Vice President, and L. V. Sharp, its Vice President, being the owner of the above described realty, does hereby lay off, plat and subdivide the same into lots, common properties, walkways, and other facilities for the beneficial use and enjoyment thereof:

1. Lots designated upon the plat as lots numbered 1 through 104, inclusive, are hereby reserved for single family, residential use and shall have erected thereon living units containing not less than 983 square feet of ground floor area in the case of a one-story structure, or 532 square feet of ground floor area in the case of a higher than one-story structure, exclusive of carports, open porches and patios.
2. Said property is hereby restricted to residential dwellings for residential use. All buildings or structures erected upon said Property shall be of new construction and no buildings or structures shall be moved from other locations onto said Property and no subsequent buildings or structures other than townhouse apartment buildings, being single family townhouse joined together by a common exterior roof and foundation, shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of said Property at any time as a residence either temporarily or permanently.
3. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.
4. Air rights easements for wall irregularities and extension roofs, eaves, overhangs, fixtures and overlaps which are a part of the initial architectural design and construction of buildings upon the lots in this addition, are hereby reserved, however, any utilization of such air right easement, following transfer of title to a single lot, shall be undertaken upon approval of the Architectural Committee as hereinafter more particularly set forth in paragraph 10 below.
5. Utility easements for installation and maintenance of utilities, including storm and sanitary sewers and drainage, gas, water, telephone, and power lines, are reserved in areas designated Common Property as shown on the recorded plat and additional reservations may be made by separate recorded instrument. Electric and telephone utilities shall have the right to install and to maintain meters, connection boxes and related equipment for all dwelling units with a single structure at one or more common locations designated by the developer on the exterior of such structure and shall have the right to enter upon the lot which the same may be located, to repair, remove, replace service and read the same for so long as such utility service shall be made available to such structure or to any replacement thereof.

APPROVED THIS - 23<sup>rd</sup>

DAY OF DECEMBER, 1971

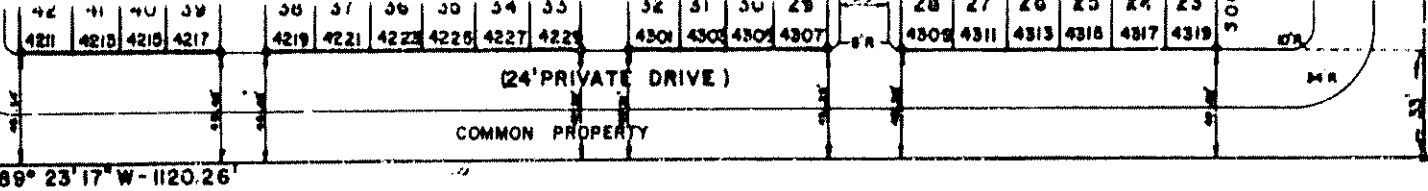
AUDITOR OF MARION COUNTY

*John D. [Signature]*  
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6. No advertising signs (except one of not more than five square feet "for rent" or "for sale" sign per parcel), billboards, utility objects or nuisances shall be erected, placed or permitted to remain on said property, nor shall said property be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof. No business activities of any kind whatever shall be conducted in any building or in any portion of said Property; provided, however, the foregoing covenants shall not apply to the business activities, signs, and billboards or the construction and maintenance of buildings, if any, of Declarant, its Agents and assigns during the construction and sale period and of Garden Walk Townhouses Owners' Association, Inc. a not-for-profit corporation incorporated or to be incorporated under the laws of the State of Indiana, its successors, and assigns, in furtherance of its powers and purposes as hereinafter set forth.

7. All clotheslines, equipments, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Townhouses and streets. All rubbish trash or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. All clotheslines shall be confined to patio areas.

8. Except in the individual patio areas appurtenant to a Townhouse, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said property except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Association's Board of Directors or their designated representatives. Except for the right of ingress and egress, the Owners of Lots are hereby prohibited and restricted from using any of said Property outside the exterior building lines, patio and carport areas, except as may be allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the mutual benefit of all Owners of Lots in Garden Walk Townhouses Owners' Association, Inc., and is necessary for the protection of said Owners.

9. Each wall which is built as a part of the original construction of the homes upon the Properties and connects two dwelling units shall constitute a party wall and to the extent not inconsistent with the provisions of these Restrictions, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

10. Exterior alterations, additions or changes to any building situated upon the lots shown, or changes in fences, hedges, walls, structures and paved areas, shall be commenced, erected, or maintained only upon submission of plans and specifications to be approved in writing, as to harmony of external design and location in relation to surrounding structures and topography by an architectural committee comprised of the Board of Directors of Garden Walk Townhouses Owners' Association, Inc., or by three (3) or more representatives appointed by the Board, all as more particularly set forth in said Declaration of Covenants and Restrictions.

11. Parking, private drives and walkway easements, as shown on the plat or in the case of walkways as indicated in Common Properties, are reserved for the common use and enjoyment of the owners of lots in this addition, their families and invitees. Said parking areas shall not be used for parking of trucks or other commercial vehicles, except temporarily or incidentally, for the making of pick-ups and deliveries to neighboring lots and shall not be used for storage of disabled vehicles. No velocipeds, bicycles, toys or other private property shall be allowed to obstruct any sidewalk within said parking private drives and walkway easements, or within any common property area, nor shall same be stored in open alongside building walls or other locations of public view.

12. Common properties as shown on the plat including the Community Building are reserved for the common use and enjoyment of the owners of lots in this addition, their families and invitees, subject to rules and regulations governing such use and enjoyment as may be adopted by Garden Walk Townhouses Owners' Association, Inc., its successors or assigns. All land depicted upon the plat which is not a numbered lot or otherwise specifically designated, is hereby declared a designated common property, but shall not be dedicated to public use.

13. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction either to restrain violation or to recover damages and against the land to enforce any lien created by these covenants or covenants contained in said Declaration of Covenants and Restrictions; and failure by Garden Walk Townhouses Owners' Association, Inc., and the Metropolitan Development Commission, its successors or assigns, or any owner to enforce any of said covenants or restrictions shall be no event to be deemed a waiver of the right to do so thereafter.

14. Severability invalidation of any one of these covenants or restrictions by judgment or Court order shall in no wise affect any other provisions which shall remain in full force and effect.

15. All private drives and walkway easements shall be subject to ingress, egress and use by any and all agencies, entities, corporations and/or individuals providing public services, and their vehicles, tools and equipment, as the case may be, while carrying out and performing such services, such as and without limitation to the generality thereof, police, fire, ambulance and postal services provided; however, repair and rubbish collection services shall not be rendered by any public agencies.

16. These covenants and restrictions shall run with and bind the land, and shall inure to the benefit of and be enforceable by Garden Walk Townhouses Owners' Association, Inc., or the owner of any lot in this addition, their respective legal representatives, heirs, successors and assigns, for a term of 20 years from the date this plat is recorded, after which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years unless an instrument signed by at least 90% during the first 20 years and 75% thereafter of the then owners of the lots has been recorded, agreeing to change said covenants and restrictions in whole or in part.

STATE OF TENNESSEE) Before me a Notary Public in and said County and  
 ) SS State personally appeared WALLACE E. JOHNSON  
 COUNTY OF SHELBY) ENTERPRISES, INC., by Roland Maddox, Executive  
 Vice President and L. V. Sharp, Vice President  
 owners and acknowledged the executions of the  
 above foregoing instrument, as its voluntary  
 act and deed.

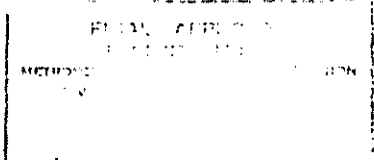
WALLACE E. JOHNSON ENTERPRISES, INC.

By Roland Maddox  
 Roland Maddox  
 Executive Vice President

By L. V. Sharp  
 L. V. Sharp  
 Vice President

Witness my Signature and notarial seal 11/2  
 day of November, 1971.  
 My Commission Expires April 22, 1972

Notary Public  
 Notary Public



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PAROL COVENANTS

409

In consideration for the support of Fall Creek View Civic League and its members for the Petition for Amendment of Zoning Ordinance pending before The Metropolitan Plan Commission of Marion County, Indiana, under Docket No. 69-Z-1, it is agreed that if such Fall Creek View Civic League and its members shall support such petition before The Metropolitan Plan Commission of Marion County, Indiana, and the Marion County Council, and if, as a result of said petition, the land therein described is placed in the D-6II classification, the following Parol Covenants in support of said petition for rezoning shall be applicable to the development and future use of the real estate as described in said petition:

1. The development of said property shall be in general conformity with the general layout as shown on Petitioner's Exhibit No. 1 being a drawing entitled "Development Scheme". By general conformity is meant that the dwelling structures will be located on the higher plateau of land and the common recreational facilities and buildings will be located on the lower elevations at the west end of the tract; that the dwelling structures will be located as generally shown on the Development Scheme in an elliptical pattern of placement with a main perimeter drive around the east and south sides of the property. It is understood that the Development Scheme does not constitute a limitation on the number of dwelling units or buildings that may be built and does not constitute a precise limitation on the location of the buildings to be erected, but that it suggests the general character of the pattern of development of the property that will be observed. The only precise and exact limitations on the development and future use of said property are those contained in the following covenants.

2. There are to be no entrances or exits to or from the property across the south or east property lines thereof.

3. Each dwelling unit is to be equipped with a garbage disposer. There are to be no incinerators or exposed trash containers on the property. All trash must be stored prior to collection in a place or places enclosed within walls and under roof and located at least 85 feet away from the south and east property lines.

4. All new power lines on the property are to be underground. In the case of exterior lighting, any light installed along the south or east boundaries, south or east of the perimeter driveway, must be mutually approved by the apartment owner and the owner of the nearest single-family residence as to type of light and manner of installation. No exterior lighting, wherever located, shall be permitted to glare or spot directly onto any adjacent single-family residence without the express approval of the owner of any such residence.

5. At least 80% of the exterior walls, other than areas occupied by windows, doors and mansard-type walls, shall be of brick or stone finish.

6. Perimeter drives and parking along the south and east property lines are to be depressed, but the natural drainage flow will not be altered in a manner that will direct surface water drainage onto the adjacent single-family residential properties. No artificial slopes will be created along the perimeter with an elevation higher than that necessary to prevent automobile headlights from shining onto the adjacent properties.

7. All healthy trees and shrubs along the south and east perimeter of the property will be retained. Any existing areas of sparse growth along the south and east perimeters will be augmented to provide a natural buffering effect so that within two years after completion of construction of the apartments there will be a reasonably dense year-round natural growth of

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RECORDER OF MARION COUNTY

evergreens, shrubbery and trees between the apartment area and the single-family residences to the south and east. The owner of the apartment area shall continue to provide proper maintenance of the natural growth.

8. Carports are to be erected for all parking areas on the east and south sides of the perimeter drive along the east and south sides of the premises with the rear of the carports enclosed for additional buffering effect.

9. Management of the apartments will maintain a policy of "No Pets Allowed".

10. No building shall be erected to a height greater than that currently permitted under the present zoning of the adjacent single-family residence areas to the south and east.

11. No buildings, other than carports, shall be erected on the existing upper plateau of land that will be nearer to the south or east property lines than 85 feet. All parking, drives and carports on the existing upper plateau of land will be so located as to be a minimum of 20 feet from the adjacent south and east property lines.

The undersigned WILLIAM G. CAMPBELL and MARIE N. CAMPBELL, husband and wife, and ROD P. HUGHES, JR. and ANNA K. HUGHES, husband and wife, are the record owners in fee simple of the real estate which is the subject of said Petition for Amendment of Zoning Ordinance known as Docket No. 69-Z-1, which real estate is described as follows:

Part of the Northeast Quarter of the Northwest Quarter of Section 9, Township 16 North, Range 4 East of the Second Principal Meridian in Marion County, Indiana, more particularly described as follows, to-wit:

Beginning at the north east corner of said quarter section, running thence west along the north line of said quarter section, 1147.92 feet to a point; thence south and parallel to the east line of said quarter section, 771.90 feet to a point; thence 1147.92 feet to the east line of said quarter section; thence north along the east line of said quarter section 775.70 feet to the place of beginning, except that part thereof lying northwesterly of the southeasterly right of way line of Indiana State Road #37.

The undersigned RUSSELL FORTUNE, JR. is the holder of a contract to purchase said real estate, subject to final approval and adoption of an ordinance as requested in said petition.

The undersigned hereby agree, for themselves and for their heirs and assigns, that, subject to the final adoption of an ordinance placing said real estate in the D-611 zoning classification, the foregoing Parol Covenants shall run with the land and shall be binding upon all present and future owners and developers thereof as Parol Covenants, subject to modification only as provided in the Improvement Location Permit Ordinance of Marion County, Indiana, which ordinance is known upon the records of the Metropolitan Plan Commission of Marion County, Indiana as Docket No. 68-A0-11, as officially adopted on November 13, 1968.

IN WITNESS WHEREOF, the said owners and developer have hereupon subscribed their names this 27th day of FEBRUARY, 1969.

William G. Campbell  
William G. Campbell

Rod P. Hughes  
Rod P. Hughes

Marie N. Campbell  
Marie N. Campbell

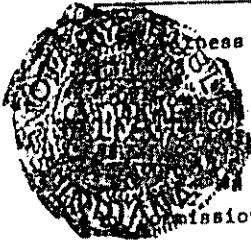
Anna K. Hughes  
Anna K. Hughes

Russell Fortune, Jr.  
Russell Fortune, Jr.

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STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared WILLIAM G. CAMPBELL and MARIE N. CAMPBELL, husband and wife, and acknowledged the execution of the foregoing Parol Covenants this 27th day of FEBRUARY, 1969.



Witness my hand and Notarial Seal.

Signature John A. Grayson  
Printed JOHN A. GRAYSON  
Notary Public

Commission expires:

MAY 18, 1972

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared ROD P. HUGHES and ANNA K. HUGHES, husband and wife, and acknowledged the execution of the foregoing Parol Covenants this 27th day of FEBRUARY, 1969.



Witness my hand and Notarial Seal.

Signature John A. Grayson  
Printed JOHN A. GRAYSON  
Notary Public

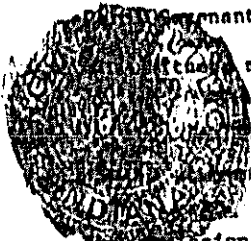
Commission expires:

MAY 18, 1972

THIS INSTRUMENT PREPARED BY  
John A. Grayson

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared RUSSELL FORTUNE, JR. and acknowledged the execution of the foregoing Parol Covenants this 28th day of FEBRUARY, 1969.



Witness my hand and Notarial Seal.

Signature John A. Grayson  
Printed JOHN A. GRAYSON  
Notary Public

Commission expires:

MAY 18, 1972

69 12724

71-51527

PAROL COVENANTS

WHEREAS, on the 27th day of February, 1969, certain parol covenants were executed as recorded on March 12, 1969, under number 69-12724 wherein the Fall Creek View Civic League and its members supported a petition for amendment of zoning ordinance then pending before the Metropolitan Planning Commission of Marion County, Indiana, under Docket No. 69-C-1 which as a result ended in a D-6 II classification on property as described herein, and

WHEREAS, said parol covenants were approved as a part of said re-zoning by the Metropolitan Planning Commission of Marion County, and the Marion County Council, and

WHEREAS, the record owners of said property are the FRANKLIN CORPORATION, and

WHEREAS, said property has been assigned to WALLACE E. JOHNSON ENTERPRISES, INC., and

WHEREAS, said WALLACE E. JOHNSON ENTERPRISES, INC., desire to construct a project on said land, and

WHEREAS, said WALLACE E. JOHNSON ENTERPRISES, INC., and the Fall Creek View Civic League desired to modify said parol covenants by amendment and replacement of existing parol covenants with the parol covenants contained herein as a more workable plan,

NOW THEREFORE, both parties agree to replace said previous parol covenants completely with new parol covenants as follows:

1. The development of said real estate shall be in conformity with the "site plans" of eight pages as attached hereto, made a part hereof, and designated as Exhibit "A". By conformity is meant that the location of the buildings and improvements constructed and situated on said real estate shall be as shown on said Exhibit "A"; that the common recreational area will be located on the west perimeter of the area and not on the east or south perimeter thereof; the general location of the buildings will be located proportionately no nearer the south or east boundary lines than as set forth in said Exhibit "A"; and that the general layout of said complex will be in compliance with said Exhibit "A"; that the construction of the apartments and the utilization of the land shall in all respects conform with present zoning classification requirements; that the general perimeter areas as shown on said Exhibit "A" shall under no circumstances be changed except to move further away from said south and east perimeter boundary lines. Reasonable ambiguities shall be determined as per Exhibit "A", if possible.

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RECORDER  
OF MARION CO.

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2. There are to be no entrances or exits to or from the property across the south or east property lines thereof.

3. Each dwelling unit is to be equipped with a garbage disposer. There are to be no incinerators or exposed trash containers on the property, except that contained on an enclosed patio. All trash must be stored prior to collection in a place or places enclosed within walls and located at least 60 feet away from the south and east property lines.

4. All new power lines on the property are to be underground. In the case of exterior lighting, any light installed along the south or east boundaries, south or east of the perimeter driveway, must be mutually approved by the apartment owner and the owner of the nearest single-family residence as to type of light and manner of installation. No exterior lighting, wherever located, shall be permitted to glare or spot directly onto any adjacent single-family residence without the express approval of the owner of any such residence.

5. At least 80% of the exterior walls, other than areas occupied by windows and doors, shall be of brick or stone finish.

6. Perimeter drives and parking along the south and east property lines are to be depressed, but the natural drainage flow will not be altered in a manner that will direct surface water drainage onto the adjacent single-family residential properties. No artificial slopes will be created along the perimeter with an elevation higher than that necessary to prevent automobile headlights from shining onto the adjacent properties.

7. All healthy trees and shrubs along the south and east perimeter of the property will be retained. Any existing areas of sparse growth along the south and east perimeters will be augmented to provide a natural buffering effect so that within two years after completion of construction of the apartments there will be a reasonably dense year-round natural growth of evergreens, shrubbery and trees between the apartment area and the single-family residences to the south and east. The owner of the apartment area shall continue to provide proper maintenance of the natural growth.

8. At no time will the sewer or water lines, connections or systems be dedicated, given or otherwise disposed of to any governmental unit. It is understood that the proposed system is adequate for the proposed project only, and not adequate for any required connecting by the single-family units in the general area. Therefore, the project will at no time voluntarily dedicate any sewer or water systems which might result in forced connection by any surrounding single-family units.

9. Management of the apartments will maintain a policy of "No Noxious Pets Allowed".

10. No buildings, other than carports, shall be erected on the existing upper plateau of land that will be nearer to the south or east property lines than 85 feet. All parking, drives, service roads, and carports on the existing land will be so located as to be a minimum of 20 feet from the adjacent south and east property lines.

THE UNDERSIGNED, FRANKLIN CORPORATION, are the record owners in fee simple of the real estate which is the subject of said parol covenants which are amending parol covenants which were included under Docket No. 69-C-1 which real estate is described as follows:

Part of the Northeast Quarter of the Northwest Quarter of Section 9, Township 16 North, Range 4 East of the Second Principal Meridian in Marion County, Indiana, more particularly described as follows, to-wit:

Beginning at the north east corner of said quarter section, running thence west along the north line of said quarter section, 1147.92 feet to a point; thence south and parallel to the east line of said quarter section, 771.90 feet to a point; thence 1147.92 feet to the east line of said quarter section; thence north along the east line of said quarter section 775.70 feet to the place of beginning, except that part thereof lying northwesterly of the southeasterly right of way line of Indiana State Road #37.

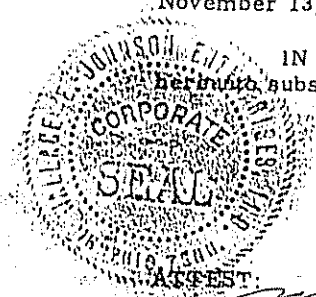
THE UNDERSIGNED, WALLACE E. JOHNSON ENTERPRISES, INC., is the holder of a contract to purchase said real estate, subject to final approval and adoption of adequate parol covenants.

THE UNDERSIGNED hereby agree for themselves and for their heirs and assigns, that, subject to the final adoption of the said covenants and the restrictions placed therein and previous adopted re-zoning, the foregoing parol covenants shall run with the land and shall be binding upon all present and future owners and developers thereof as parol covenants, subject to modification only as provided in the improvement location permit ordinance of Marion County, Indiana, which ordinance is known upon the records of the Metropolitan Planning Commission of Marion County, Indiana, as Docket No. 68-10-11, as amended and as officially adopted on November 13, 1968.

IN WITNESS WHEREOF, the said owners and contract holders  
Hereto subscribed their names this 23<sup>rd</sup> day of September, 1971.

WALLACE E. JOHNSON ENTERPRISES, INC.

By [Signature]  
VICE President



[Signature]  
Secretary







71-71016

H.P.R. 11 20. 20

CROSS REFERENCE

CROSS REFERENCE

AMENDMENT OF EXISTING  
PAROL COVENANTS

WHEREAS, on the 27th day of February, 1969, certain parol covenants were executed as recorded on March 12, 1969, under number 69-12724 wherein the Fall Creek View Civic League and its members supported a petition for amendment of zoning ordinance then pending before the Metropolitan Planning Commission of Marion County, Indiana, under Docket No. 69-C-1 which as a result ended in a D-6 11 classification on property as described therein, and

WHEREAS, said parol covenants were approved as a part of said re-zoning by the Metropolitan Planning Commission of Marion County, and the Marion County Council, and

WHEREAS, an amended set of parol covenants were executed and designed to replace said previous parol covenants and were recorded in the Marion County Recorder's Office on October 7, 1971, under number 71-54527 for said property located at the southeast corner of State Road 37 and 56th Street in Marion County, Indiana, and

WHEREAS, the former record owners of said property were the FRANKLIN CORPORATION, and

WHEREAS, said property is now owned by WALLACE E. JOHNSON ENTERPRISES, INC., and

WHEREAS, said WALLACE E. JOHNSON ENTERPRISES, INC., is now constructing a project on said land, and

WHEREAS, said WALLACE E. JOHNSON ENTERPRISES, INC., and the Fall Creek View Civic League desired to further modify two of said amended parol covenants as amendments and replacements including a new Exhibit "A" page one (1) designated as Exhibit "A-1" as a more workable plan, now therefore all parties and their specific assigns agree to replace the following parol covenants with the new language as follows:

PAROL COVENANT # 1 IS TO BE CHANGED AS FOLLOWS:

1 The development of said real estate shall be in conformity with the "site plans" of eight (8) pages as previously attached to said October 7, 1971, recording with the Marion County Recorder with the exception of page 1 which shall be replaced with Exhibit "A-1" attached hereto and made a part hereof by this reference. By conformity is meant that the location of the buildings and improvements constructed and situated on said real estate shall be as shown on said Exhibit "A-1"; that the common recreational area will be located as shown on Exhibit "A-1" located on the west perimeter of the area and shall under no circumstances be located further east or south than shown on said Exhibit "A-1"; additional growth shall be located

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RECORDER OF MARION CO.

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provisions contained in the entire covenants shall be planted on the south boundary line for further shielding of the recreational facilities from the single-family homes; single-family homes abutting the area in the general area of the recreational facilities shall be provided reasonable fencing upon request of said single-family dweller; the lighting of said tennis courts and other recreational facilities shall conform at all times with point 4 of amended parol covenants as recorded in the Marion County Recorder's Office on October 7, 1971, under number 71-54527; no recreational facility shall be built except as shown on Exhibit "A-1"; the general location of the buildings will be located proportionately no nearer the south or east boundary line than as set forth in said Exhibit "A" and Exhibit "A-1"; and that the general layout of said complex will be in compliance with said Exhibit "A" and Exhibit "A-1"; that the construction of the apartments and the utilization of the land shall in all respects conform with all present zoning classification requirements; that the general perimeter areas as shown on said Exhibit "A" and Exhibit "A-1" shall under no circumstances be changed except to move further away from said south and east perimeter boundary lines. Reasonable ambiguities shall be determined as per Exhibit "A" and Exhibit "A-1", if possible. In all respects Exhibit "A-1" shall take precedence over Exhibit "A" when and if there is any conflict.

2. Amended parol covenant number 8 as recorded in the Marion County Recorder's Office on October 7, 1971, under number 71-54527 shall be amended as follows:

NO. 8 WALLACE E. JOHNSON ENTERPRISES, INC., will construct a sewer in a permanent easement along the south side of Lot #5 of the Fall Creek Highland Homes Sub-Division to the approximate east pavement edge of North Drexel Avenue; thence south along said pavement to Fall Creek Boulevard; thence to a manhole of the Fall Creek interceptor sewer. All sewer construction will be done according to the specifications of the Indianapolis Department of Public Works. All pavement repairs and restoration of any surface damage will be done according to the specification of the Indianapolis Department of Transportation where applicable. All repairs will be done with an intention of as near restoration as possible of the previously existing surface. Said sewer will be dedicated to the City of Indianapolis for public use with the understanding that all property owners thereby affected will be considered as "participants" with absolutely no fees or assessments ever paid by the owners of said properties along Drexel Avenue to WALLACE E. JOHNSON ENTERPRISES, INC., their successors or assigns either directly or indirectly for the use of said sewer. JOHNSON will also construct lateral sewers with plugs to the approximate front property line of each side of said lots in Drexel. Any owner wishing to be exempt can file written request to Weihe Engineers, Inc. on or before February 1, 1972. Any owner desiring to specify the location of said lateral connection may do so in writing to Weihe Engineers, Inc. on or before February 1, 1972. The main sewer will be 10 inches and the laterals will be 6 inches apiece. The laterals will be a minimum of 5 feet deep at the property line. At all times traffic and access to private drivos will be maintained if at all possible. It is the intention that all construction except pavement

repair will be done at one time and will take place before April, 1972. The pavement repair will be done 60 to 90 days following to allow proper settling. All repair necessary will be borne entirely by the WALLACE E. JOHNSON ENTERPRISES, INC., as to financial responsibility. The total cost of the above construction and all associated fees and assessments will be paid entirely by the WALLACE E. JOHNSON ENTERPRISES, INC. No fee of any type will ever be paid by the owner and their assigns of said properties to JOHNSON, their successors or assigns either directly or indirectly for the use of said sewer. At no time will JOHNSON, their successors or assigns use any effort to have the owners connect to this sewer or to refrain from said connection. The manhole at the north end of the line at Lot #5 will be designed as to permit a future extension of the sewer to 56th Street. Before construction, JOHNSON will enter into a private contract with the Sanitary Board listing the name and lot address of each owner as a participant in the project thereby exempting each owner from paying a connection fee. It is understood that this may be accomplished through the use of the appropriate maps submitted for the various approvals.

THE UNDERSIGNED, WALLACE E. JOHNSON ENTERPRISES, INC., owns said real estate.

THE UNDERSIGNED, hereby agree for themselves and for their heirs and assigns, that, subject to the final adoption of the said covenants and the restrictions placed therein and previous adopted rezoning, the foregoing parcel covenants shall run with the land and shall be binding upon all present and future owners and developers thereof as parcel covenants, subject to modification only as provided in the improvement location permit ordinance of Marion County, Indiana, which ordinance is known upon the records of the Metropolitan Planning Commission of Marion County, Indiana, as Docket No. 68-80-11, as amended and as officially adopted on November 13, 1968.

IN WITNESS WHEREOF, the said owners hereunto subscribed their names this 14<sup>th</sup> day of December, 1971.

WALLACE E. JOHNSON ENTERPRISES, INC.

By *L. V. Hoop*  
VICE President

ATTEST:

*Wm. Hussey*  
Secretary

CROSS REFERENCE

72. 38619

18.20

CROSS REFERENCE

DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by WALLACE E. JOHNSON ENTERPRISES, INC., hereinafter referred to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in the County of Marion, State of Indiana, which is more particularly described as:

Lots 1 through 104 inclusive, in Blocks 1 through 20 inclusive, in Garden Walk, an Addition in Marion County, Indiana, as per plat thereof, recorded on December 23, 1971 as Instrument No. 71 71281 in the office of the Recorder of Marion County, Indiana, together with the private drives and common properties and areas as described in said plat and all appertences thereto and hereditaments thereof.

NOW THEREFORE, Declarant hereby declares that all of the properties described above 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.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Garden Walk Townhomes Owners' Association, Inc., 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.

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RECORDER  
OF MARION CO.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

All areas designated as "Common Area" on the recorded plat of Garden Walk, recorded as Instrument No. 71 71281 in the office of the Recorder of Marion County, Indiana.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to WALLACE E. JOHNSON ENTERPRISES, INC., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Manager" shall mean and refer to the party or parties under contract in compliance with the provisions of Article IV, Section 11 of this instrument.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

(d) The right of the Association to limit the number of guests of members.

(e) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said properties and the rights of such mortgagee in such properties shall be subordinate to the rights of the homeowners hereunder.

(f) The right of the Association, through its Board of Directors, to determine the time and manner of the use of the recreation facilities by the members.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

### ARTICLE III

#### 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 which is subject to assessment.

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:

- (i) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (ii) on July 1, 1975.

#### ARTICLE IV

##### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The 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) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's 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 attorney's 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 recreations, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Eighty Four Dollars (\$384.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than three per cent (3%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above three per cent (3%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of 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 Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (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 each class of 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 sixty (60) days following the preceding meeting.

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

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and, unless otherwise provided, the Association shall collect each month from the owner of each Lot one-twelfth of the annual assessment for such Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Collection of Annual Assessment by Manager. The Manager is empowered, and the Manager agrees, to collect the annual

assessment for a lot in installments of one-twelfth (1/12th) of the assessment. The Manager shall remit such collections to the Association at such time as the Manager and the Association may agree. Each purchaser of a Lot agrees to this provision. Nothing herein contained shall be construed to impose any liability on the Manager other than to remit to the Association any sums collected by the Manager representing prorated annual assessments under this Declaration.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six per cent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Garden Walk Townhomes Owners' Association, Inc., or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien.

The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of all other Lot Owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. 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. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 11. Management Agreements. Each owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be cancelled by an affirmative vote of sixty per cent (60%) of the votes of each class of the members of the Association. In no event shall such management agreement be cancelled prior to the effecting by the Association or its Board of Directors of a new management agreement with a party or parties, which new management agreement will become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a management contract. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this type.

Section 12. Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings on the Real Estate (including all townhomes unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors' complete satisfaction) against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also

obtain a broad form public liability policy covering all Common Areas, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance, except on the individual townhomes, shall be common expenses. All such insurance coverage, including insurance on individual townhomes obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the townhome owners in equal proportions. Insurance on individual townhomes obtained by such townhome owners shall be written in the name of the individual Owners. Premiums for insurance obtained by the Board of Directors on individual townhomes shall not be part of the common expense but shall be an expense of the owner or owners of a specific townhome or townhomes so covered and a debt owned by the Owners, and shall be collectible by any lawful procedure permitted by the laws of the State of Indiana. In addition, if said debt is not paid within twenty (20) days after notice of such debt, such amount shall continue to be a lien on the Lot until fully paid. This lien shall be subordinate to the lien of any first mortgage and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments. In addition to the aforesaid insurance required to be carried by the Owners and/or the Association, any Owner may, if he wishes, at his own expense, insure his own townhome unit for his own benefit and carry any and all other insurance he deems advisable. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, homeowners liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as

good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal Governmental Agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstructions or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged townhomes in such proportions as the Board of Directors deem fair and equitable in the light of the damage sustained by such townhomes to make up any deficiency, except that the special assessment shall be levied against all townhome Owners, as established by Article IV, Section 4, above, to make up any deficiency for repair or rebuilding of the common area not a physical part of a townhome unit. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and owners in such proportions as the Board of Directors deem fair and equitable in light of the damage sustained by such townhomes. Such payments shall be made to all such owners and their mortgagees as their interests may then appear. In the event of damage or destruction by fire or other casualty to any townhome or other property covered by insurance written in the name of an individual owner, said owner shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of the exterior of the townhome in a good workmanlike manner in conformance with the original plans

and specifications of said townhomes. In the event such owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the townhome area within thirty (30) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such owner to repair and rebuild any such townhome in a good and workmanlike manner in conformance with the original plans and specifications of the townhomes. The owner shall then repay the Association in the amount actually expended for such repairs, and the Association shall have a lien securing the payment of same identical to that provided above in this section securing the payment of insurance premiums, and subject to foreclosures as above provided.

Notwithstanding the foregoing provisions of this Section 12, it is further provided that the requirement for the maintenance of insurance on a townhome shall not apply to any townhome acquired by the Veteran's Administration or Federal Housing Administration under a mortgage foreclosure during the period of ownership by either of said Veteran's Administration or Federal Housing Administration.

#### ARTICLE V

##### ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to, or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall 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. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.



ARTICLE VI

EXTERIOR MAINTENANCE

Section 1. In addition to maintenance upon the Common Area, 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, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces and patios.

Section 2. In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family or 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.

ARTICLE VII

USE RESTRICTIONS

In order to provide for a congenial occupation of the Garden Walk Townhomes and to provide for the protection of the value of the entire development, the use of the residences and Common Area shall be in accordance with the following provisions:

(a) Each of the townhomes shall be occupied by only a family, its servants, and guests, as a residence and for no other purpose. No townhome may be divided or subdivided into a smaller unit nor any portion thereof sold or otherwise transferred.

(b) The Common Areas shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the townhomes. No use or practice shall be permitted in any townhome or in the Common Areas which is the source of annoyance to the residents, or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary condition, and no rubbish

refuse or garbage allowed to accumulate, nor fire hazard allowed to exist. No immoral, improper, offensive or unlawful use shall be made of the townhome property or any part thereof. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. No townhome owner shall permit any use of his townhome or of the Common Area which will increase the rate of insurance upon the properties.

(c) Until the Declarant, its successors or assigns, has sold all of the townhomes, neither the Owners nor the Association shall interfere with the sale of the townhomes. The Declarant, its successors or assigns, may make such use of the unsold townhomes and Common Area as may facilitate sale, including but not limited to the maintenance of a sales office, the showing of the property and the display of signs.

(d) Except as provided in Paragraph (c) no signs of any kind or for any use or purpose whatsoever shall be erected, posted, painted, or displayed upon any exterior wall or roof, or any part thereof, without the prior written consent of the Association, which consent will not be unreasonably withheld.

(e) No turkeys, geese, chickens, ducks, pigeons, or fowls of any kind, or goats, rabbits, hares, horses or animals usually termed "farm animals", shall be kept or allowed to be kept in any townhome or in the Common Area, nor shall any commercial dog raising or cat raising, or any kind of commercial business be conducted on the premises, except that household pets may be permitted in written rules adopted by the Association. Any household pets permitted shall be leashed when not inside the townhome or patio of the townhome.

(f) No recreation vehicles or commercial vehicles, including but not limited to boats, boat trailers, house

trailers, camping trailers, motorcycles, pick-up trucks or similar type items shall be kept other than in the garage or patio of the owner's townhome.

(g) Reasonable rules and regulations concerning the use of the townhome property may be made and amended from time to time by the Association in the manner provided by its Bylaws.

(h) An owner shall not, without the prior written consent of the Association, make any structural alteration in the townhome or in the water, gas, or steam pipes, electrical conduits, plumbing or other fixtures connected therewith, or remove any additions, improvements or fixtures from the townhome or Common Area.

#### ARTICLE VIII

##### EASEMENTS

Each Lot shall include the following easements from each Lot owner to each other Lot owner and the same shall pass with each Lot and shall rest in the grantee thereof as an inseparable appurtenance thereto:

Section 1. Ingress and Egress. Easements through the Common Area for ingress and egress for all persons making use of such Common Area in accordance with the terms of the Declaration.

Section 2. Maintenance, Repair and Replacement. Easements through the Lot and Common Area for maintenance, repair and replacement of the townhome and Common Area elements. Use of these easements, however, for access to the Lot shall be limited to reasonable hours except that access may be had at any time in case of emergency, originating in his townhome or threatening the safety of his or other townhomes, whether owner be present or not.

Section 3. Utilities. Easements through the Lots and Common Area for all facilities for the furnishing of utility services within the property and to the various Lots, which facilities shall include but not be limited to conduits, ducts, plumbing and wiring; provided,

however, that the easements for such facilities through a Lot shall be substantially in accordance with the plans and specifications of the property.

ARTICLE X

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 line 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 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. 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.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each

party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all arbitrators. If a party refuses to select an arbitrator within ten (10) days after request so to do, the Board of Directors of the Association shall select an arbitrator for the party refusing to do so.

#### ARTICLE X

##### GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety per cent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set is hand and seal this 7<sup>th</sup> day of June, 1972.

WALLACE E. JOHNSON ENTERPRISES, INC.

By O. L. Dick  
Vice Pres.

Attest: H. M. Hickey  
Asst. Sec. Treas.

STATE OF TENNESSEE )  
COUNTY OF SHELBY )

Before me, the undersigned, a Notary Public in and for said county and state, personally appeared O. L. Dick and H. M. Hickey, the Vice Pres. and Asst. Sec. Treas. of WALLACE E. JOHNSON ENTERPRISES, INC., the above Declarant, who acknowledged the execution of the above and foregoing instrument for and on behalf of said corporation.

WITNESS my hand and Notarial Seal this 7<sup>th</sup> day of June, 1972.

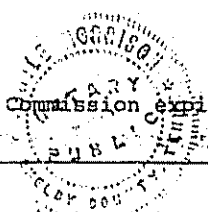
Threlkeld  
Notary Public

My Commission expires:

\_\_\_\_\_

This instrument prepared by:

THRELKELD and HOWARD, P. A.  
175 Tillman Street Building  
Memphis, Tennessee 38111



(7)

AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS FOR  
GARDEN WALK TOWNHOMES

This Amendment to the Declaration of Covenants, Conditions and Restrictions for Garden Walk Townhomes was executed this 8<sup>th</sup> day of NOVEMBER, 1994.

WITNESSETH THAT:

WHEREAS, a development commonly known as Garden Walk Townhomes located in Marion County, Indiana, was established pursuant to a certain "Declaration of Covenants, Conditions and Restrictions" filed with the Marion County Recorder's Office on July 7, 1972 as Instrument No. 72-3861, ("Declaration"); and

WHEREAS, Garden Walk Townhomes Owners' Association, Inc. was formed, organized and incorporated under the Indiana Not-For-Profit Corporation Act of 1971 by the filing of its Articles of Incorporation with the Secretary of State of Indiana on February 16, 1972; and

WHEREAS, the Board of Directors and the Owners within Garden Walk Townhomes desire to amend certain provisions of the Declaration for the purposes to properly update and correctly recognize existing matters; and

WHEREAS, Article X, General Provisions, Section 3, Amendment, of the Declaration provides that such Declaration may now be amended by a properly recorded instrument signed by not less than seventy-five percent of the Lot Owners; and



WHEREAS, at a special meeting held on July 27, 1994, the amendments set forth below were presented to the Owners for discussion; and

WHEREAS, the undersigned Owners, constituting more than seventy-five percent of the current Lot Owners within Garden Walk Townhomes, desire to amend the Declaration upon the terms and conditions set forth in this amendment.

NOW, THEREFORE, the undersigned Owners hereby amend the Declaration such that all of the Lots, Common Areas, and lands located within the Properties are held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied and improved, subject to the following restrictions, all of which were and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Garden Walk Townhomes' development as a whole and of each of said Lots situated therein. All of the restrictions contained in this instrument shall run with the land and shall be binding upon all of the present and future Owners and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Properties or any part or parts thereof subject to such restrictions.

#### AMENDMENTS

1. Article VII, Paragraph (c), of the Declaration setting forth certain rights of the Declarant related to sale of townhomes



is hereby deleted since the Declarant no longer owns or is developing any additional townhomes for sale in the subdivision.

2. Article III, Membership and Voting Rights, Section 2, is hereby deleted in its entirety as being outdated and is amended and replaced with the following provisions:

### ARTICLE III

#### ONE MEMBERSHIP CLASS

Section 1. Class. This Corporation is to have members. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Corporation, including contract sellers, shall be a member of the Corporation. The foregoing is not intended to include persons or entities who hold an interest merely as a security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Corporation. The Corporation shall have one class of voting membership. Membership shall consist of all Owners, and an Owner 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.

Section 2. Rights, Preferences, Limitations and Restrictions of Class. All Members in good standing shall have the same rights, privileges, duties, liabilities, limitations and restrictions as the other Members. All Members shall abide by the Declaration, these Articles, the Code of Bylaws and the rules and regulations adopted by the Board of Directors and any amendments to such documents.

Any Member who fails to comply with the requirements of the Declaration, these Articles, the Bylaws or the rules and regulations made pursuant thereto, including, but not limited to, the duty for the payment of assessments, shall, if a majority of the Board of Directors by an affirmative vote at a Board of Directors Meeting so determine, during the time period of such failure, suspend his membership rights and interests to use the amenities and to vote on any matter coming before the Members. However, a Member may not be so suspended and a membership may not be suspended except under a procedure adopted by resolution of a majority of the Board of Directors that is fair, reasonable and carried out in good faith.

Section 3. Voting Rights. A. Each Member in good standing shall have voting rights subject to provisions of this Section. There shall be one person with respect to each Lot who shall be entitled to vote at any meeting of the Members. Such person shall be known as a "Voting Member". Such Voting Member may be the Owner or one of the group composed of all the Owners of a

Lot, or may be some person designated by such Owner or Owners to act as proxy on his behalf and such designated person need not be an Owner. Any or all of such Voting Members may be present at any meeting of the Voting Members and may vote or take any action as Voting Member, either in person or by proxy.

A Member may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy, the Member shall duly designate his attorney-in-fact in writing delivered to the Secretary of the Corporation prior to commencement of the meeting.

B. Quorum. Except as specifically provided otherwise under the Declaration, these Articles, the Bylaws or the Indiana Nonprofit Corporation Act of 1991, or any amendments to such documents, the presence at the meeting of Members entitled to cast, or of proxies entitled to cast one-tenth of the votes of the membership, shall constitute a quorum for any action. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote at such meeting shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum as specified shall be present or be represented.

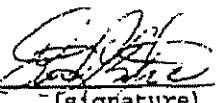
C. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

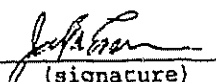
D. Definitions. The definition of terms defined in the Declaration as used herein shall be applicable, unless otherwise expressly defined herein, to this Amendment.

Section 4. Acceptance and Ratification. The acceptance of a deed of conveyance or the act of occupancy of any Lot or dwelling unit within the Properties shall constitute a ratification of this Amendment, together with the Declaration (including all amendments and supplements thereto), the Bylaws and all amendments thereto, the Articles of Incorporation and all amendments thereto, and any rules or regulations adopted pursuant to said documents, and all such provisions shall be covenants running with the land and shall bind any person having at any time any interest or estate in a Lot or dwelling unit within the Properties as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease.

IN WITNESS WHEREOF, the undersigned Officers and Owners of Lots within Garden Walk Townhomes executed this Amendment to the Declaration of Covenants, Conditions and Restrictions for Garden Walk Townhomes as of the date of the last signature below.

GARDEN WALK TOWNHOMES OWNERS' ASSOCIATION, INC.

  
\_\_\_\_\_  
(signature) President

  
\_\_\_\_\_  
(signature) Secretary

ERIC R. LIKE  
\_\_\_\_\_  
(printed)

John A. Emerson  
\_\_\_\_\_  
(printed)

STATE OF INDIANA )  
COUNTY OF Marion )

Before me, a Notary Public, in and for said County and State,  
personally appeared ERIK R. ZIKE & JOHN EMERSON, and  
PRESIDENT & SECRETARY, who acknowledged the execution  
of the foregoing Amendment to the Declaration of Covenants,  
Conditions and Restrictions for Garden Walk Townhomes, and who,  
having been duly sworn, stated that the statements contained herein  
are true to the best of their knowledge and belief. Subscribed and  
sworn to before me this 8th day of NOVEMBER,  
1994.

My Commission Expires:

Apr 22 1995

Mary L Harmon  
Notary Public

County of Residence:

Hendricks

MARY L HARMON  
Printed Signature

JOHN R. 799 ARX  
MARION  
NOTOR  
DEC 19 1994  
13  
NOTARIAL  
OFFICE

This instrument prepared by Gary Dilk, Attorney at Law,  
Buschmann, Carr & Shanks, P.C., 1020 Market Tower,  
Ten West Markey Street, Indianapolis, Indiana 46204

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AMENDED AND RESTATED CODE OF BYLAWS  
OF GARDEN WALK TOWNHOME OWNERS' ASSOCIATION, INC.

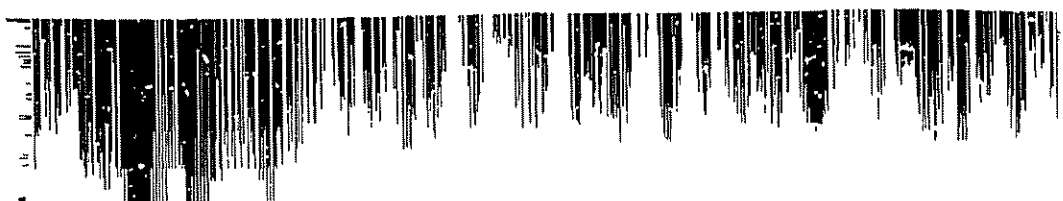
These Amended and Restated Code of Bylaws made this 8<sup>th</sup> day  
of NOVEMBER, 1994, by Garden Walk Townhomes Owners'  
Association, Inc., a Mutual Benefit Not-For-Profit Indiana  
Corporation (hereinafter known as "the Association"), states the  
following:

WITNESSETH THAT:

WHEREAS, there is presently in full force and effect the  
following instruments containing various declarations, covenants  
and restrictions controlling and governing the real estate develop-  
ment located in Marion County, Indiana and commonly known as  
"Garden Walk" as follows:

Declaration of Covenants, Conditions and Restrictions of  
Garden Walk ("Declaration") duly recorded on July 7, 1972, in the  
Office of the Recorder, County of Marion, State of Indiana, as  
Instrument Number 72-38619 and a Code of Bylaws of Garden Walk  
("Original Bylaws") promulgated and executed June 7, 1972 and  
thereafter duly recorded in the Office of the Recorder, County of  
Marion, State of Indiana, as Instrument Number 72-28620 and certain  
amendments thereto;

WHEREAS, the Association desires to make certain amendments to  
the Original Lylaws to comply with the provisions of the Indiana  
Not-For-Profit Corporation Act of 1991;



WHEREAS, the Association further desires to restate its Original Bylaws and incorporate all prior amendments of such Bylaws in one instrument setting forth a current and complete set of such bylaws presently in full force and effect;

WHEREAS, the Declarations and Original Bylaws and amendments thereto are incorporated herein by reference and all of the covenants, rights, restrictions, and liabilities contained in such documents shall apply to and govern the interpretation of these Amended and Restated Code of Bylaws. The definitions and terms as defined and used in the Declaration and the Original Code of Bylaws shall have the same meaning as in these Amended and Restated Code of Bylaws, and reference is specifically made to Article II of the Declaration and Article II of the Original Bylaws containing definitions of terms. The provisions of these Amended and Restated Code of Bylaws shall apply to the property and the administration and conduct of the affairs of the Association; and

WHEREAS, pursuant to Article XVII of the Original Bylaws, these Amended and Restated Code of Bylaws have been duly passed by the necessary votes of the Membership in a duly constituted meeting called for such purpose;

NOW, THEREFORE, the Association hereby amends and restates its Code of Bylaws as follows:

ARTICLE I.

1. The name of the corporation is Garden Walk Townhomes Owners' Association, Inc., hereafter referred to as the

"Association". The principal office of the corporation shall be located at 3643 Mission Drive, Indianapolis, Indiana, 46224, but meetings of members and directors may be held at such places within the State of Indiana, County of Marion, as may be designated by the Board of Directors.

## ARTICLE II

### Definitions

Section 1. "Association" shall mean and refer to Garden Walk Townhomes Owners' Association, Inc., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the 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 any obligation.

Section 3. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 5. "Lot" shall mean and refer to any plot of land designated as such and shown upon any recorded subdivision map of the Properties with the exception of the Common Area.



Section 6. "Declarant" shall mean and refer to Wallace E. Johnson Enterprises, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Manager" shall mean and refer to the party or parties under contract in compliance with the provisions of Article XIV, Section 11 of this instrument.

Section 8. "Declaration" shall mean and refer to the Declaration of Covenants and Restrictions applicable to the Properties recorded in the Office of the Marion County Recorder.

Section 9. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

### ARTICLE III

#### Meeting of Members

Section 1. Annual Meetings. The annual meetings of the members shall be held on the fourth Wednesday in July of each year if such day is not a legal holiday, or, if a legal holiday, then on the next succeeding business day which is not a legal holiday.

Section 2. Special Meetings. A special meeting of the members of the Association may be called by resolution or petition as follows:

- (a) Upon resolution by the Association's President;
- (b) Upon resolution by the Board of Directors; or
- (c) Upon written petition signed and dated by at least ten percent of all Owners. The close of business on the thirtieth day

before delivery of the demand for a special meeting to a corporate officer is the record date for the purpose of determining if the ten percent requirement of this section has been met

The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting, except as stated in the petition or resolution.

Section 3. Notice of Meeting. Written or printed notice stating the place, day and hour of a meeting and, in case of a special meeting, the purpose or purposes for which such meeting is called, may be delivered or mailed by the Secretary of the Association to each member of record of the Association entitled to vote at the meeting, at such address as appears upon the records of the Association, at least fifteen days before the date of the meeting. In the alternative, notice of such meeting to Owners may be made as part of the Association's newsletter, magazine, or other publication regularly mailed to Owners. Notice of any meeting of the members may be waived in writing by any member if the waiver sets forth in reasonable detail the purpose or purposes for which the meeting is called and the time and place thereof. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting. If an annual, a regular, or a special meeting of the Owners of the Association is adjourned to a different date, time, or place, notice is not required to be given

of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast one-tenth of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 6. Voting Rights. There shall be one person with respect to each Lot who shall be entitled to vote at any meeting of the Members. Such person shall be known as a "Voting Member". Such Voting Member may be the Owner or one of the group composed of all the Owners of a Lot, or may be some person designated by such Owner or Owners to act as proxy on his behalf and who need not be an Owner. Any or all of such Voting Members may be present at any meeting of the Voting Members and may vote or take any action as Voting Member, either in person or by proxy.

A Member may vote either in person or by his duly authorized and designated attorney-in-fact. Where voting is by proxy the Member shall duly designate his attorney-in-fact in writing delivered to the Secretary of the Corporation prior to commencement of the meeting.

Section 7. Action Taken Without Meeting: Approval of Action by Members Holding Eighty Percent of Votes Entitled to be Cast. Action required or permitted to be approved by the Members may be taken without a meeting of Members if the action is approved by Members holding at least eighty percent of the votes entitled to be cast on the action. The action must be evidenced by at least one written consent describing the action taken that meets the following conditions:

- (1) Is signed by the members representing at least eighty percent of the votes entitled to be cast on the action; or
- (2) Is delivered to the corporation for inclusion in the minutes or filing with the Association's records.

Requests for written consents must be delivered to all Members.

The record date for determining members entitled to take action without a meeting is the date that the first member signs the consent under this Section.

A consent signed under this Section:

- (1) has the effect of a meeting vote; and
- (2) may be described as such in any document.

Action taken under this Section is effective when the last Member necessary to meet the eighty percent requirement signs the consent unless a prior or subsequent effective date is specified in the consent.

#### ARTICLE IV

##### Board of Directors: Selection: Term of Office

Section 1. Number. The affairs of this Association shall be managed by a board of seven directors, who need not be Members of the Association.

Section 2. Term of Office. The terms of elected directors shall be three years. Any vacancy occurring on the Board of Directors shall be filled by vote of a majority of the remaining Directors. Any director elected to fill such vacancy shall serve for the unexpired term of the Director whose vacancy is thus filled.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. A director may be removed only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors. A director may not be removed if the number of votes sufficient to elect the director under cumulative voting is voted against the director's removal. A director elected by members may be removed by the members only at a meeting called for the purpose of removing the director. The

meeting notice must state that the purpose of the meeting is the removal of the director. An entire board of directors may be removed under the Section.

In the event of death, resignation or removal of a director, his or her successor shall be selected by the remaining Members of the Board and shall serve for the unexpired term of his or her predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

#### ARTICLE V

##### Nomination and Election of Directors

Section 1. Nomination. Nomination of election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the

Board of Directors prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or nonmembers.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

#### ARTICLE VI

##### Meetings of Directors

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held monthly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of

the Association, or by any two Directors, after not less than three days notice to each Director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4. Waiver of Notice. Any member of the Board of Directors may waive notice of any meeting in writing. Attendance by a member at any meeting shall constitute a waiver of notice of such meeting.

#### ARTICLE VII

##### Powers and Duties of the Board of Directors

Section 1. Powers of the Board of Directors. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and Facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use the recreational facilities, if any, of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty days for infraction of published rules and regulations;



(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Charter, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three consecutive regular meetings of the Board of Directors; and

(e) employ a manager, independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or any special meeting when such statement is requested in writing by one-fourth of the Members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration to:

(1) fix the amount of the annual assessment against each Unit at least thirty days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty days after due date or to bring an action at law against the Owner personally obligated to pay the same.

(d) issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment:

(e) procure and maintain adequate liability and casualty insurance on property owned by the Association;

(f) cause all officers and employees having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained; and

(h) cause the exterior of the dwellings to be maintained.

Section 3. Duties; Reliance on Statements and Information Given by Others; Conditions for Liability; Director not Trustee. A director shall, based on facts then known to the director, discharge duties as a director, including the director's duties as a member of a committee, as follows:

(1) In good faith;

(2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) In a manner the director reasonably believes to be in the best interests of the Association.

In discharging the director's duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by one of the following:

(1) An officer or employee of the Association whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence.

(3) A committee of the Board of Directors of which the director is not a member if the director reasonably believes the committee merits confidence.

A director is not acting in good faith if the director has knowledge concerning a matter in question that makes reliance otherwise permitted by this Section unwarranted.

A director is not liable for an action taken as a director, or failure to take an action, unless the following conditions exist:

(1) The director has breached or failed to perform the duties of the director's office in compliance with this Section.

(2) The breach or failure to perform constitutes willful misconduct or recklessness.

A director is not considered to be a trustee with respect to the Association or with respect to any property held or administered by the Association, including property that may be

subject to restrictions imposed by the donor or transferor of the property.

Section 4. Grounds for Indemnification. If an individual is made a party to a proceeding because the individual is or was a director, the Association may indemnify the individual against liability incurred in the proceeding if:

- (1) the individual's conduct was in good faith; and
- (2) the individual reasonably believed:

(A) in the case of conduct in the individual's official capacity with the Association that the individual's conduct was in the Association's best interests; and

(B) in all other cases, that the individual's conduct was at least not opposed to the Association's best interests; and

- (3) in the case of any criminal proceeding, the individual:

(A) had reasonable cause to believe the individual's conduct was lawful; or

(B) had no reasonable cause to believe the individual's conduct was unlawful.

The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not determinative that a director did not meet the standard of conduct described in this Section.

Section 5. Director Wholly Successful in Defense of Proceeding. The Association shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of a proceeding to which the director was a party, because the director

is or was a director of the Association, against reasonable expenses actually incurred by the director in connection with the proceeding.

Section 6. Reasonable Expense Payments in Advance of Final Disposition. The Association may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if the following occur:

(1) The director furnishes the Association a written affirmation of the director's good faith belief that the director has met the standard of conduct described in Section 3.

(2) The director furnishes a written undertaking, executed personally or on the director's behalf, to repay an advance if it is ultimately determined that the director did not meet the standard of conduct.

(3) A determination is made that the facts then known to those making the determination would not preclude indemnification under this Section.

The undertaking required by this Section:

- (1) must be an unlimited general obligation of the director;
- (2) is not required to be secured; and
- (3) may be accepted without reference to financial ability to make repayment.

Determinations and authorizations of payments under this Section shall be made in the manner specified in Section 8.

Section 7. Application to Court; Grounds for Ordering Indemnification. A director of the Association who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. The Association shall then comply with all terms of any court order, entry, or other instructions related to indemnification.

Section 8. Authorization of Indemnification; Evaluation as to Reasonableness of Expenses; Procedures of Board of Directors. The Association may not indemnify a director under Section 8 unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in Section 3.

The determination shall be made by one of the following procedures:

(1) By the Board of Directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding.

(2) If a quorum cannot be obtained by majority vote of a committee designated by the Board of Directors consisting solely of at least two directors not at the time parties to the proceedings. Directors who are parties may participate in the designation.

By special legal counsel:

(a) selected by the Board of Directors or a committee of the Board of Directors in the manner prescribed in subdivision (1) or (2); or

(b) if a quorum of the Board of Directors cannot be obtained under subdivision (1) and a committee cannot be designated under subdivision (2), selected by majority vote of the full Board of Directors. Directors who are parties may participate in the selection.

(3) By the Members. However, membership votes under the control of directors who are at the time parties to the proceeding may not be voted on the determination.

Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible. However, if the determination is made by special legal counsel, authorization of indemnification and evaluation as to the reasonableness of expenses shall be made by those entitled.

Section 9. Loans to and Guarantees of Obligations of Directors. The Association may not:

- (1) lend money to; or
- (2) guarantee the obligation of a director or an officer of the Association.

A loan or guaranty that is made in violation of this Section does not affect the borrower's liability on the loan.

#### ARTICLE VIII

##### Officers and Their Duties

Section 1. Enumeration of Offices. The Officers of this Association shall be a President and Vice President, who shall at

all times be Members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of Officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The Officers of this Association shall be elected annually by the Board and each shall hold office for one year unless he sooner resigns, or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other Officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such



vacancy shall serve for the remainder of the terms of the officer he replaces.

Section 7. Multiple Offices. The Offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out, shall sign all leases, mortgages, deeds and other written instruments and co-sign all checks and promissory notes.

(b) Vice President. The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it all on the papers requiring said seal; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association's books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular meeting, and deliver a copy of each to the Members.

Section 9. Indemnification of Officers, Employees and Agents. An officer of the Association, whether or not a director, is entitled to:

- (1) mandatory indemnification under Article VII, Section 5; and
- (2) apply for court ordered indemnification under Article VII, Section 7, in each case.

To the same extent as a director:

The Association may indemnify and advance expenses to an officer, employee, or agent of the Association whether or not a director, to the same extent as to a director; and

The Association may indemnify and advance expenses to an officer, employee or agent, whether or not a director, to the extent and consistent with public policy that may be provided by

general or specific action of the Association's Board of Directors,  
or contract.

#### **ARTICLE IX**

##### **Committees**

The Board of Directors shall appoint an Architectural Control Committee, as provided in the Declaration, and shall appoint a Nominating Committee, as provided in these Bylaws. The Board may appoint itself to serve as the Architectural Control Committee. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

#### **ARTICLE X**

##### **Books and Records**

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Articles of Incorporation and the Bylaws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

#### **ARTICLE XI**

##### **Assessments**

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments

which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

### ARTICLE XII

#### Property Rights

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area.

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid;

and for a period not to exceed sixty days for any infraction of its published rules and regulations.

(c) The right of the Association to dedicate to transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds of each class of Members agreeing to such dedication or transfer has been recorded.

(d) The right of the Association to limit the number of guests of Members.

(e) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and Facilities and in aid thereof to mortgage said properties and the rights of such mortgagee in such properties shall be subordinate to the rights of the homeowners hereunder.

(f) The right of the Association, through its Board of Directors, to determine the time and manner of the use of the recreation facilities by the Members.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the Property.

### ARTICLE XIII

#### 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 which is subject to assessments.

Section 2. The Association shall have one class of voting membership. Membership shall consist of all Owners, and an Owner 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.

### ARTICLE XIV

#### Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The 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 agrees to pay to the Association (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's 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 attorney's 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 recreations, health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area, and of the homes situated upon the properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Three Hundred Eighty Four Dollars (\$384.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than three percent above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot of an Owner, the maximum annual assessments may be increased above three percent by a vote of two-thirds of each class of Members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

Section 4. Special Assessments for Capital Improvements.  
In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of the votes of each class of 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 Sections 3 and 4 shall be sent to all Members not less than thirty days nor more than sixty days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty days following the preceding meeting.



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

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted accordingly to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and, unless otherwise provided, the Association shall collect each month from the Owner of each Lot one-twelfth of the annual assessment for such Lot. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Collection of Annual Assessment by Manager. The Manager is empowered, and the Manager agrees, to collect the annual assessment for a Lot in installments of one-twelfth of the assessment. The Manager shall remit such collections to the Association at such time as the Manager and the Association may agree. Each purchaser of a Lot agrees to this provision. Nothing

herin contained shall be construed to impose any liability on the Manager other than to remit to the Association any sums collected by the Manager representing prorated annual assessments under these Bylaws.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty days after the due date shall bear interest from the due date at the rate of six percent per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the Garden Walk Townhomes Owners' Association, Inc., or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage or deed of trust lien on real property, and such Owner hereby expressly grants to the Association a power of sale in connection with said lien.

The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other Lot Owners. The Association, acting on behalf of all other Lot Owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same; and to subrogate so much of its right to such liens as may be necessary

or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium. No Owner may waive or otherwise escape liability for assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 10. 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. However, the sale of or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof.

Section 11. Management Agreements. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of all management agreements entered into by the Association. A copy of all such agreements shall be available to each Owner. Any and all management agreements entered into by the Association shall provide that said management agreement may be canceled by an affirmative vote of sixty percent of the votes of each class of the Members of the Association. In no event shall such management agreement be canceled prior to the effecting by the Association of its Board of Directors of a new management agreement with the party or parties,

which new management agreement will become operative immediately upon the cancellation of the preceding management agreement. It shall be the duty of the Association or its Board of Directors to effect a management contract. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this type.

Section 12. Insurance Assessments. The Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings on the Real Estate (including all townhomes unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors complete satisfaction) against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all Common Areas, and all damage or injury caused by the negligence of the Association or any of its agents. Said insurance may include coverage against vandalism. Premiums for all such insurance, except on individual townhomes, shall be common expenses. All such insurance coverage, including insurance on individual townhomes obtained by the Board of Directors shall be written in the name of the Association as Trustee for each of the townhome owners in equal proportions. Insurance on individual townhomes obtained by such townhome owners shall be written in the name of the individual Owners. Premiums

for insurance obtained by the Board of Directors on individual townhomes shall not be part of the common expense but shall be an expense of the owner or owners of a specific townhome or townhomes so covered and a debt owed by the Owners, and shall be collectable by any lawful procedure permitted by the laws of the State of Indiana. In addition, if said debt is not paid within twenty days after notice of such debt, such amount shall continue to be a lien on the lot until fully paid. This lien shall be subordinate to the lien of any first mortgage and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments. In addition to the aforesaid insurance required to be carried by the Owners and/or Association, any Owner may, if he wishes, at his own expense, insure his own townhome unit for his own benefit and carry any and all other insurance he or she deems advisable. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, homeowners liability insurance, theft and other insurance covering personal property damage and loss. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution

are insured by a Federal Governmental Agency, with the proviso agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third of the members of the Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged townhomes in such proportions as the Board of Directors deems fair and equitable in the light of the damage sustained by such townhomes to make up any deficiency, except that the special assessments shall be levied against all townhome Owners, as established by Article IV, Section 4, above, to make up any deficiency for repair or rebuilding of the Common Area not a physical part of a townhome unit. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and Owners in such proportions as the Board of Directors deems fair and equitable in light of the damage sustained by such townhomes. Such payments shall be made to all such Owners and their mortgagees as their interests may then appear. In the event of damage or destruction by fire or other casualty to any townhome or other property covered

by insurance written in the name of an individual Owner, said Owner shall, with concurrence of the mortgages, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of the exterior of the townhome in a good workmanlike manner in conformance with the original plans and specifications of said townhomes. In the event such Owner refuses or fails to so repair or rebuild any and all such damage to the exterior of the townhome area within thirty days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such Owner to repair and rebuild any such townhome in a good and workmanlike manner in conformance with the original plans and specifications of the townhomes. The Owner shall then repay the Association in the amount actually expended for such repairs, and the Association shall have a lien securing the payment of same identical to that provided above in this section securing the payment of insurance premiums, and subject to foreclosures as above provided.

Notwithstanding the foregoing provisions of this Section 12, it is further provided that the requirement for the maintenance of insurance on a townhome shall not apply to any townhome acquired by the Veteran's Administration or Federal Housing Administration under a mortgage foreclosure during the period of ownership by either of said Veteran's Administration or Federal Housing Administration.

ARTICLE XV

Use Restrictions

In order to provide for a congenial occupation of the Garden Walk Townhomes and to provide for the protection of the value of the entire development, the use of the residences and Common Area shall be in accordance with the following provisions:

(a) Each of the townhomes shall be occupied by only a family, its servants, and guests, as a residence and for no other purpose. No townhome may be divided or subdivided into a small unit nor any portion thereof sold or otherwise transferred.

(b) The Common Areas shall be used only for the purposes for which they are intended in the furnishing of services and facilities for the enjoyment of the townhomes. No use or practice shall be permitted in any townhome or in the Common Areas which is the source of annoyance to the residents, or which interferes with the peaceful possession and proper use of the property by its residents. All parts of the property shall be kept in a clean and sanitary conditions, and no rubbish, refuse or garbage allowed to accumulate, nor fire hazard allowed to exist. No immoral, improper, offensive or unlawful use shall be made of the townhome property or any part thereof. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdictions thereof shall be observed. No townhome owner shall permit any use of his townhome or of the Common Area which will increase the rate of insurance upon the properties.



(c) Until the Declarant, its successors or assigns, have sold all of the townhomes, neither the Owners nor the Association shall interfere with the sale of the townhomes. The Declarant, its successors or assigns, may make such use of the unsold townhomes and Common Area as may facilitate sale, including but not limited to the maintenance of a sales office, the showing of the property and the display of signs.

(d) Except as provided in Paragraph (c) no signs of any kind or for any use or purpose whatsoever shall be erected, posted, painted, or displayed upon any exterior wall or roof, or any part thereof, without the prior written consent of the Association, which consent will not be unreasonably withheld.

(e) No turkeys, geese, chickens, ducks, pigeons, or fowl of any kind, or goats, rabbits, hares, horses, or animals usually termed "farm animals", shall be kept or allowed to be kept in any townhome or in the Common Area, nor shall any commercial dog raising or cat raising, or any kind of commercial business be conducted on the premises, except that household pets may be permitted in written rules adopted by the Association. Any household pets permitted shall be leashed when not inside the townhome or patio of the townhome.

(f) No recreation vehicles or commercial vehicles, including but not limited to boats, boat trailers, house trailers, camping trailers, motorcycles, pickup trucks or similar type items shall be kept other than in the garage or patio of the owner's townhome.

(g) Reasonable rules and regulations concerning the use of the townhome property may be made and amended from time to time by the Association in the manner provided by its Bylaws.

(h) An Owner shall not, without the prior written consent of the Association, make any structural alteration in the townhome or in the water, gas or steam pipes, electrical conduits, plumbing or other fixtures connected therewith, or remove any additions, improvements or fixtures from the townhome or Common Area.

#### ARTICLE XVI

##### Corporate Seal

The Association shall have a seal in circular form having within its circumference the words: GARDEN WALK TOWNHOMES OWNERS' ASSOCIATION, INC.

#### ARTICLE XVII

##### Amendments

Section 1. Voting. These Bylaws may be amended, at a regular or special meeting of the Members, by a vote of majority of a quorum of Members present in person or by proxy.

Section 2. Conflict. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

**ARTICLE XVIII**

**Miscellaneous**

**Section 1. Fiscal Year.** The fiscal year of the Association shall begin on the first day of January and end on the last day of December of every year.

**Section 2. The Indiana Nonprofit Corporation Act of 1991.** The provisions of the Indiana Nonprofit Corporation Act of 1991, as amended, applicable to any of the matters not herein specifically covered by these Bylaws, are hereby incorporated by reference in and made a part of these Bylaws.

**ARTICLE XIX**

**Suspension of an Owner's Privileges  
for Use and Enjoyment of Amenities**

**Section 1. Board of Director's Right to Suspend Privileges.** Each Owner of a dwelling unit is a Member of the Association. Membership in the Association confers upon each Owner certain rights for the use and enjoyment of Common Areas and amenities, including but not limited to, privileges for the use and enjoyment of the clubhouse and pool facilities.

If an Owner fails to abide by and comply with all terms and conditions of the Association's Bylaws, Declaration and other duly promulgated rules and regulations, as now existing or as amended hereafter, the Board of Directors may suspend any Owner's rights to the use and enjoyment of the Common Areas and amenities owned and/or maintained by the Association.

Section 2. Suspension Procedures. Prior to the suspension of any Owner's rights for the use and enjoyment, the Board of Directors shall comply with the following procedures:


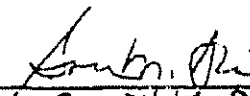
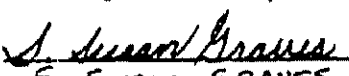
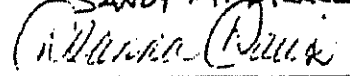
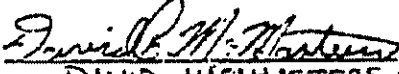

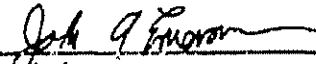
(a) At least fifteen days prior to any suspension, the Board of Directors shall provide written notice to the Owner of the Board of Directors intent to suspend the Owner's rights for the use and enjoyment of the Common Areas and amenities. Such written notice shall specifically set forth the reason(s) of the violation(s) causing the suspension, and shall further explain the nature and duration of the suspension of the rights for use and enjoyment. Such written notice shall be given by mail to the Owner by first class or certified mail sent to the last address of the Owner shown on the Association's records.

(b) The Board of Directors shall provide an opportunity for the Owner to be heard, orally or in writing, not less than five days before the effective date of the suspension proposed by the Board of Directors for the purpose to permit an Owner to explain why the suspension should not take place.

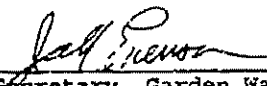
(c) A proceeding challenging a suspension to the use and enjoyment, including a proceeding in which defective notice is alleged, must be commenced within one year after the effective date of suspension.

Section 3. Remaining Liability for Assessments. An Owner who has been suspended under these Sections is still obligated and responsible for payment of all assessments and other sums due and owing to the Association for past, current and future amounts.

IN WITNESS WHEREOF, we being all of the Directors of GARDEN  
WALK TOWNHOMES OWNERS' ASSOCIATION, INC., have hereunto set our  
hands this 9<sup>th</sup> day of November, 1994.

<u></u> ERIC R. ZIKE, Director	<u></u> SANDY M. PIERCE, Director
<u></u> S. SUSAN GRAVES, Director	<u></u> DEANNA DAVIS, Director
<u></u> DAVID MCHESTERS, Director	_____
<u></u> JUDITH M. WHYTE, Director	_____
<u></u> John A. EMERSON, Director	_____

ATTEST:

  
Secretary, Garden Walk Townhomes  
Owners' Association, Inc. John A. EMERSON

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

Subscribed and sworn to before me, a Notary Public in and for  
said County and State, this 8th day of NOVEMBER  
1994.

My Commission Expires:

April 22, 1995

Mary L. Harmon  
Notary Public

County of Residence:

Hendricks

MARY L. HARMON  
Printed Signature

This instrument was prepared by Gary Dilk, Buschmann, Carr &  
Shanks, P.C., 1020 Market Tower, Ten West Market Street,  
Indianapolis, Indiana 46204. Telephone: 317\635-5511