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DECLARATION OF COVENANTS AND RESTRICTIONS
OF
HERON RIDGE SUBDIVISION

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DECLARATION OF COVENANTS AND RESTRICTIONS
OF
HERON RIDGE SUBDIVISION

This Declaration of Covenants and Restrictions of Heron Ridge Subdivision ("Declaration") is made this 28TH day of JANUARY, 1999, by Heron Ridge, LLC (the "Declarant"),

W I T N E S S E T H:

WHEREAS, Declarant is the Owner of real estate in Johnson County, State of Indiana, which is more particularly described in Exhibit "A" attached hereto and hereby incorporated herein by reference (hereinafter referred to as the "Real Estate"); and

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community with streets, lakes, landscaped areas, open spaces, walls, fences and other common areas and amenities for the benefit of such community, to be known as "Heron Ridge Subdivision"; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community and the common areas therein contained, and, to this end, Declarant desires to subject the Real Estate and any additional property which is hereafter made subject to this Declaration by Supplemental Declaration to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Real Estate and each Owner of all or part thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the powers of supervising, maintaining and administering any certain areas located on the Real Estate, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, and promoting the health, safety and welfare of the Owners of the Real Estate, and all parts thereof; and

WHEREAS, Declarant has caused, or will cause, to be incorporated under the Indiana Code 23-17-1, et seq., under the name "Heron Ridge Homeowners Association, Inc.", or a similar name, as such agency for the purpose of exercising such functions;

NOW, THEREFORE, Declarant, as Owner of the Real Estate or with the consent of the Owners of the Real Estate and any additional property which is hereafter made subject to this Declaration by Supplemental Declaration hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used,

improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each of the Lots situated thereon.

ARTICLE I Definitions

Section 1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

(a) "Act" shall mean and refer to the Indiana Nonprofit Corporation Act of 1991, as amended;

(b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;

(c) "Association" shall mean and refer to Heron Ridge Homeowners Association, Inc., an Indiana nonprofit corporation organized under Indiana Code 23-17-1, et seq., which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns;

(d) "Articles" shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time;

(e) "Block" shall mean and refer to each cluster of two contiguous Lots upon which a single Building containing two Dwelling Units will be constructed.

(f) "Board" or "Board of Directors" shall mean and refer to the governing body of the Association elected, selected or appointed as provided for in the Articles, Bylaws and this Declaration;

(g) "Building" shall mean and refer to each structure located on more than one Lot containing two Dwelling Units.

(h) "Bylaws" shall mean and refer to the Code of Bylaws of the Association, as the same may be amended from time to time;

(i) "Commercial Tract" shall mean the portion of the Real Estate designated as Lot 36, on the plat of the Real Estate which is intended to be developed for commercial purposes.

(j) "Committee" shall mean and refer to the "Heron Ridge Architectural Control Committee", the same being the committee or entity established pursuant to Article VIII, Section 1, of this Declaration for the purposes herein stated;

(k) "Common Areas" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not dedicated to the public, including the Lake, and landscaped areas surrounding the Lots which are not identified as Lots or Blocks on any such plat, whether such plat is heretofore or hereafter recorded, (ii) such portions of the Real Estate as are herein declared to be Common Areas on the plat of the Real Estate even though located on or constituting part of one or more such Lots shown on any such plat, and (iii) to the extent hereinafter established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Areas;

(l) "Common Expenses" shall mean and refer to expenses of administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, all Exterior Maintenance Costs and all insurance costs, including casualty insurance on the Buildings and all sums, costs and expenses declared by this Declaration to be Common Expenses;

(m) "Declarant" shall mean and refer to Heron Ridge, LLC, an Indiana limited liability company, and any successors and assigns whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;

(n) "Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family located on each Lot; a single Dwelling Unit may be constructed on more than one Lot with the consent of the Declarant;

(o) "Exterior Maintenance" shall mean the upkeep, maintenance, repair and replacement of the exterior of the Lots and Buildings which are required to be maintained, repaired and replaced by the Association hereunder, including lawn sprinklers, fences, roofs, Building exteriors, foundations, exterior walkways and driveways, landscape areas surrounding the Buildings as originally planted and installed by Declarant.

(p) "Exterior Maintenance Costs" shall mean all expenses of Exterior Maintenance.

(q) "Lake" shall mean and refer to the lake, detention pond or retention pond located on the Real Estate as shown on the plat heretofore or hereafter recorded which are part of the Common Areas;

(r) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Areas) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit, as designated by the Declarant by its deed of the same to another Person. A Lot is any single numbered parcel of land shown upon, and identified as a Lot on, any recorded subdivision plat of the Real Estate or any part thereof. Lot shall not include the Commercial Tract.

(s) "Lot Owner" shall mean and refer to the record Owner, whether one or more Persons, of the fee simple title to any Lot, but in any event shall not include or mean or refer to a mortgagee or tenant unless and until such mortgagee or tenant has acquired title to any Lot, but upon so acquiring title to any Lot a mortgagee or tenant shall be an Owner;

(t) "Mortgages" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;

(u) "Owner" shall mean and refer to the Lot Owners;

(v) "Person" shall mean and refer to an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof;

(w) "Proportionate Share" means with respect to Common Expenses allocated among the Lots means the percentage share derived by dividing such Lot by the total number of Lots;

(x) "Real Estate" shall mean and refer to the overall tract of real estate in Johnson County, Indiana, described in Exhibit "A" attached to this Declaration, as referred to in the first recital clause of this Declaration, and defined therein as the Real Estate, together with such additional property as is hereafter made subject to this Declaration by Supplemental Declaration;

(y) "Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time;

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

ARTICLE II
Declaration; Common Areas and Rights Therein; Utilities; Streets

Section 1. Declaration. Declarant hereby expressly declares that the Real Estate shall be held, transferred and occupied subject to the Restrictions. The Owners, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from a Declarant or a subsequent Owner, or (ii) by the act of occupancy, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to each Restriction and agreement herein contained. By acceptance of such deed, or execution of such contract, or undertaking such occupancy, each Owner and all other Persons acknowledge the rights and powers of Declarant, the Committee and of the Association with respect to these Restrictions, and also for itself, its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant, the Committee, the Association, and the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

Section 2. Easement to Owner. The Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Areas (except for such portions of the Common Areas, if any, as to which, in accordance with other provisions hereof, the use, enjoyment and benefit is limited to the Owners of certain designated Lots to the exclusion of other Lots) subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot.

ARTICLE III
Obligations as to Common Areas

Section 1. Agreement to Construct and Convey Common Areas. The Declarant has constructed or provided for, or will construct or provide for, those Common Areas consisting of the following items:

- (a) a storm drainage system for the Real Estate, which may include the Lake, inlet pipes, open ditches, swales, pipes and other structures and drainage courses;
- (b) the installation, in common areas or landscape easements of landscaping and other screening materials;
- (c) the installation of entrance walls and other masonry fences in common areas or landscape easements;
- (d) the installation, within the street rights-of-way, of street lighting, street directories and street signs in common areas or in landscape easements.

Upon final construction or provision of the Common Areas described in this Section 1 and completion of all Dwelling Units, the Declarant covenants to convey by quitclaim deed all of its right, title and interest in and to said Common Areas to the Association and all such right, title and interest in and to said items to the extent not already conveyed pursuant to Article VI, Section 1, (whether owned in fee, by leasehold, by contract or in the nature of an easement or license) shall then be the property of the Association.

Section 2. Agreement to Construct Certain Improvements. Each Lot Owner, or their respective builder, shall be responsible for the initial construction of the following items:

(a) the installation of landscaping and grass surrounding the Building in such landscape areas as may be designated by the Declarant to the Lot Owner or its builder;

(b) the construction of porches, patios, fences, masonry walls and other screening devices which extend outside of the Building to be located as designated by the Declarant to Lot Owner or its builder;

(c) the construction and paving of each Lot's driveway from the Dwelling Unit's garage to the street and all sidewalks required by Declarant; and

(d) such other items as designated by the Declarant to the Lot Owner's builder which is customarily constructed by a homeowner in a zero lot line community with Lots extending to street right-of-way.

The lawns, landscaping, drives, walks, roofs, foundation and exterior of the Dwelling Units shall be owned by each respective Lot Owner but shall be maintained by the Association unless such maintenance and repair is required of the Owner as provided herein.

Section 3. Additional Common Areas at Declarant's Option. Declarant may, at its option but without obligation to do so, convey other portions of the Real Estate to the Association for, or construct, install or provide for other items for or on, or services to serve, the Real Estate as amenities for, the mutual benefit, use or enjoyment of the Owners. Included as examples of the foregoing, but not limited therein, might be a community television antenna or receiving device to serve all of the Dwelling Units, storage buildings for storage of articles by Owners or provisions of portions of the Real Estate for recreational or other common uses or purposes for the Owners, including without limitation, a swimming pool, tennis courts, clubhouse or other recreational facilities or additional entrances, landscaped areas and walls. Any such portions of the Real Estate, or other items, or services, which Declarant, at its sole option, elects to convey, construct, install or provide as Common Areas shall become a part of the Common Areas only when so designated by Declarant in a written instrument executed by Declarant and delivered to the Association. Upon any such designation by Declarant, Declarant shall convey by quitclaim deed all of its right, title and interest in and to the Common Areas so designated to the Association and all such right, title and interest in and to

the Common Areas so designated and conveyed shall then and thereupon be and become the property of the Association, whether or not the same constitutes, or may be located entirely or partially on, any one or more of the Lots or any Lot shown upon any recorded subdivision plat of the Real Estate, or parts thereof.

ARTICLE IV Association; Membership; Voting; Functions

Section 1. Membership in Association. Declarant and each Owner shall, automatically upon becoming an Owner, be and become a member of the Association and shall remain a member until such time as his ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and will be transferred to the new Owner; provided, however, that any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a member of the Association.

Section 2. Voting Rights. The Association shall have the following classes of membership, with the following voting rights:

(a) **Class A.** Class A members shall be all Owners except Class B members. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than one (1) Person constitutes the Owner of a particular Lot, all such Persons shall be members of the Association, but all of such Persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot. Any Class A member who builds a single Dwelling Unit on more than one Lot is still entitled to one (1) vote for each of the Lots owned.

(b) **Class B.** Class B members shall be the Declarant and all successors and assigns of Declarant designed by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Association. Each Class B member shall be entitled to ten (10) votes for each Lot of which it is an Owner, on all matters requiring a vote of the members of the Association. The Class B membership shall cease and terminate upon the first to occur of (i) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Association stating that the Declaration no longer desires to manage or control the maintenance of the Common Areas, or (ii) the date Declarant no longer owns any Lots (the applicable date being herein referred to as the "Applicable Date"). After the Applicable Date, Class B memberships shall be converted to Class A memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot of which it is the Owner.

Section 3. Functions. The Association has been (or will be) formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Areas as and to the extent provided herein, to pay taxes assessed against and payable with respect to the Common Areas, to pay any other necessary expenses and costs in connection with the Common Areas, to provide for Exterior Maintenance and to perform such other functions as may be designated for it to perform under this Declaration.

ARTICLE V Board of Directors

Section 1. Management. The business and affairs of the Association shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, or a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The initial Board of Directors shall be composed of the person or persons designated or to be designated, in the Articles, to-wit: J. Greg Allen (herein referred to as the "Initial Board"), who has been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provision of, this Declaration, the Articles, the Bylaws or the Act (a) the Initial Board shall hold office until the first annual meeting of the members of the Association occurring on or after the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to such first annual meeting occurring on or after the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by the Declarant, who shall thereafter be deemed a member of the Initial Board. Each Lot Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed the Declaration as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as the Declarant determines, on all matters as to which members of the Association are entitled to vote under the Declaration, the Articles, the Bylaws, the Act or otherwise. This appointment of the Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by the Declarant to fill a vacancy, shall be deemed a Special member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a member of the Association nor an Owner of a Lot for any other purpose (unless he or she is actually the Owner of a Lot and thereby a member of the Association).

Section 3. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership, corporation, trust or other legal entity, then one of the Persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article V, the entire membership of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the first annual meeting of the members occurring on or after the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of one (1) year. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article V as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Section 5. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners or until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Association representing all of the Owners and being responsible for the functions and duties of the Association, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common Areas, the Exterior Maintenance (unless the same are otherwise the responsibility or duty of Owners), insuring the Buildings (but not the Owners interior property) from casualty loss and the collection and disbursement of the Common Expenses. The Declarant or the Board, after the Applicable Date, may employ a Managing Agent upon such terms as the Declarant or the Board shall find, in their discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) protection, surveillance and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;
- (b) procuring of utilities used in connection with the Common Areas (to the extent the same are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies);
- (c) mowing of lawns, landscaping, painting, decorating, furnishing, repairing, snow removal and maintenance and upkeep of, the Common Areas;
- (d) providing for Exterior Maintenance.
- (e) assessment and collection from the Owners of the Owners' respective shares of the Common Expenses;
- (f) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of the annual or special meeting at which the same is to be acted upon is mailed or delivered;
- (g) preparing and delivering annually to the Owners an accounting of all receipts and expenses incurred in the prior year; if possible, such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (h) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Association, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (i) procuring and maintaining for the benefit of the Association, the Owners, any Managing Agent and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;
- (j) paying taxes and assessments assessed against and payable with respect to the Common Areas and paying any other necessary expenses and costs in connection with the Common Areas; and
- (k) all duties and obligations imposed upon the Association or the Board under this Declaration, the Articles, the Bylaws or the Act.

Section 7. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These power include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties;
- (b) to purchase, lease or otherwise obtain for the Association, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;
- (d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas, and to perform all other maintenance, upkeep, repair and replacement duties of the Association and the Board;
- (e) to include the costs of performing all of its functions, duties and obligations as Common Expenses and to pay all of such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Association;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Areas (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners; and
- (h) to grant to such public or private companies, entities or bodies as the Board may approve, such easements as may be necessary to provide the Dwelling Units and Common Areas with facilities for utility and similar services, including but not limited to cable television facilities and service; provided that such easements are located within or are co-extensive with any one or more utility easements, maintenance and access easement, landscape and maintenance easements, or Common Areas shown upon, and identified as such on, or provided for in, any subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded.

Section 8. Limitation on Board Action. After the Applicable Date, the authority of the Board to enter into contracts shall be limited to contracts involving a total expenditure of less than \$50,000.00 per year without obtaining the prior approval of a majority of the cumulative vote of the Owners, except that in the following cases such approval shall not be necessary:

(a) contracts for replacing or restoring portions of the Common Areas, Lots or Buildings damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received or for which the insurance carrier has acknowledged coverage;

(b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and

(c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 9. Compensation. No Director shall receive any compensation for his services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 10. Non-Liability of Directors. The Directors shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association.

Section 11. Additional Indemnity of Directors. The Association shall indemnify, hold harmless and defend any Person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Association shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of willful misconduct or bad faith. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for misconduct in

the performance of his duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

Section 12. Bond. The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Association, and such other officers as the Board deems necessary, to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful, abstraction, willful misapplication and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

Section 13. Initial Management. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have, and Declarant hereby reserves to itself, the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Areas, and to perform all the functions of the Association, until the Applicable Date. Declarant may, at its option, engage a Managing Agent affiliated with it to perform such functions and, in either case, Declarant or such Managing Agent shall be entitled to reasonable compensation for its services.

ARTICLE VI Real Estate Taxes; Utilities

Section 1. Real Estate Taxes. Real estate taxes on each Lot, and on any Dwelling Unit or other improvements on each Lot, are to be separately assessed and taxed to each Lot and shall be paid by the Owner of such Lot. Any real estate taxes or other assessments against the Common Areas shall be treated as a Common Expense.

Section 2. Utilities. Each Owner shall pay for his own utilities which, to the extent possible, shall be separately metered to each Lot and Dwelling Unit. Utilities which are not separately metered to an Owner's Lot or Dwelling Unit shall be treated as and paid as part of the Common Expense.

ARTICLE VII Maintenance and Repair

Section 1. By the Owner. Each Owner shall be responsible for, if the need therefor arises, all maintenance, repairs, decoration and replacement of the interior of his own

Dwelling Unit, all windows, awnings and doors of his own Dwelling Unit any additional landscaping areas on his Lot not planted or installed at the time of original construction of the Dwelling Unit and any patio, deck, walk or porch on his Lot which was not part of the original construction of the Dwelling Unit. All fixtures and equipment installed within or as part of a Dwelling Unit, and the utility lines, pipes, wires, conduits or systems entering the Dwelling Unit, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Dwelling Unit, which, if neglected, might adversely affect any other Lot or Dwelling or any part of the Common Areas. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances and other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot. Further, at the election of the Association, each Lot Owner shall be responsible for the removal of snow from the drive serving the Dwelling Unit.

Section 2. By the Association. The Association shall be responsible for the maintenance, repair, replacement and upkeep of the Common Areas and for all Exterior Maintenance (except to the extent provided herein as the obligation of Owners) and the cost thereof shall constitute a part of the Common Expenses.

The Association, as part of its duties, and as a part of the Common Expenses, shall also provide for maintenance for the following items:

(a) those portions of the Real Estate which are located outside any perimeter fencing (including walls) originally installed by the Declarant as part of the perimeter treatment of the Real Estate, but only to the extent that the same are not maintained by or the responsibility of a public authority. For purposes of this subparagraph (a), "outside any perimeter fencing" means the areas between such fencing and the nearest property line of the Real Estate;

(b) any perimeter fencing (including walls) originally installed by the Declarant as part of the perimeter treatment of the Real Estate; and

(c) any equipment, such as water wells or fountains, installed by Declarant to serve the entire project to be developed on the Real Estate, whether or not located on Lots.

(d) the storm water drainage system for the Real Estate, including but not limited to the maintenance of all Lakes, offsite dry detention drainage facility, inlets, open ditches, pipes, swales, manholes and detention ponds. Sump pumps, gravity drains and other drains serving individual residences on Lots shall outfall only into drainage swales included in such storm water drainage system.

(e) all fences, walls, landscaping, screening material, street directories and signs, water wells and irrigation systems and other improvements outside of the Lots.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Areas as it deems necessary, provided that the same are not inconsistent with the express provisions of this Declaration.

Notwithstanding any obligation or duty of the Association to repair or maintain any of the Common Areas or to perform Exterior Maintenance, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Areas, Lots or Buildings, or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, or if an Owner fails to maintain any patio, deck, walks or porch or additional landscaping installed by Owner, then such Owner shall pay for such damage and/or such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

The authorized representatives of the Association, the Board and the Managing Agent for the Association (if any) shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of items it must maintain repair or replace including, but not limited to, access to any easements reserved, granted or created by any subdivision plat of any portion of the Real Estate for such purposes.

Section 3. Exterior Dwelling Unit Maintenance. As part of the Exterior Maintenance, the Association shall provide exterior maintenance upon each Dwelling Unit, as follows: paint, repair, replacement and care for roofs, foundations, gutters, downspouts and exterior building surfaces of the Buildings and trees, shrubs, grass, walks and other exterior improvements except for exterior improvements installed by Owner after the original construction of the Dwelling Unit. Such exterior maintenance shall not include glass surfaces, doors, windows or awnings. In the event the need for maintenance or repair of a Dwelling Unit is caused through the willful or negligent act of the family, guests or invitees of the Dwelling Unit needing such maintenance or repair, the cost of such Exterior Maintenance shall be added to and become a part of the assessment to which such Dwelling Unit is subject. The Association, its employees, agents or designees are hereby granted a blanket easement over and upon the Lots, except for the interior of any Dwelling Unit, for the purpose of exterior and ground maintenance.

Section 4. Common Expense Allocation. All of the Common Expenses shall be allocated to all Lot Owners in accordance with each Lot Owner's Proportionate Share (except as provided herein). No Common Expenses shall be allocated or assessed to the Commercial Tract but the Commercial Tract shall be assessed a reasonable pro rata share of the cost of maintaining and repairing the entrance way and entrance drive into the subdivision.

ARTICLE VIII Lake Covenants

Section 1. Ownership of Lake. The Lake area as shown on the plats of the subdivision shall be owned and controlled by the Association as part of the Common Area.

Section 2. Rights To Use Lakes. Subject to the easement rights with respect to the Lake described in the Plat applicable to the Real Estate, the Owners may only use and enjoy such Lake in accordance with regulations established by the Association and only if they do not interfere with the drainage system of the subdivision of which the Lake is a part.

Section 3. Maintenance of Lake. The Association shall have reasonable rights of access across Lots abutting the Lake in order to permit it to provide for the maintenance, repair and upkeep of said Lake.

Section 4. Limitations on Use of Lake. No person shall do or permit to be done any action or activity which could result in pollution of the Lake, diversion of water, elevation of Lake levels, earth disturbance resulting in silting or any conduct which could result in an adverse affect upon water quality, drainage of the subdivision or proper Lake management.

The Lake is and will be an integral part of the storm water drainage system serving the Real Estate and is intended to be used for such purpose and primarily as visual and aesthetic amenities and not as recreational amenities. Accordingly, no use shall be made of the Lake which in any way interferes with their proper functioning as part of such storm water drainage system.

The Lake shall be kept free and clean of rubbish, debris and other unsightly materials. No structure of any kind shall be placed in the Lake or on the Lake property without the prior written approval of the Board of Directors.

No boating, swimming, diving, fishing, skiing or ice skating shall be permitted in or on said Lake except as permitted by the Board of Directors.

No sewage, garbage, refuse or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into said Lake, except the Board of Directors may take steps to clear and purify the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to aerate the same.

Section 5. Costs of Maintenance. Estimated costs of maintenance and repair of the Lake property shall be included in the Common Expenses subject to assessment for the Lots.

ARTICLE IX Architectural Standards

Nothing, including any fence, deck, dock, recreational equipment (including basketball goals), or any structure, storage shed, doghouse or other improvements, shall be erected on any Lot, and no construction, which term shall include within its definition staking, clearing, excavation, grading, and other site work, no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the Committee has been obtained pursuant to Section 1 below.

This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Common Area by or on behalf of the Association.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration.

Section 1. Architectural Control Committee. There shall be, and hereby is, created and established the "Heron Ridge Architectural Control Committee" ("Committee") which shall have exclusive jurisdiction over all construction on any portion of the Real Estate. Until 100% of the Dwelling Units have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant, or not more than five, nor less than three, persons designated by it, shall constitute the Committee and shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by the Declarant. After the sale of 100% of the Dwelling Units, the Committee shall be a standing committee of the Association, consisting of not more than five, nor less than three, persons as may, from time to time, be provided in the Bylaws. If the Bylaws do not at any time provide for the Committee, then the Board shall be and constitute the Committee.

Section 2. Approval Process. The Committee has prepared and promulgated, on behalf of the Board of Directors, design and development guidelines and application and review procedures. Copies are on file in the office of Declarant (or the Association, as the case may be) which are incorporated into this Declaration by reference. The guidelines and procedures shall be those of the Association, and the Committee shall have sole and full authority to prepare and to amend them. It shall make the guidelines and procedures available to Owners, builders, and developers who seek to engage in development of or construction, modification, addition or alteration made on or to any existing structure, upon all or any portion of the Real Estate and such Owners, builders and developers shall conduct their operations strictly in accordance therewith. The Committee, or its designee, must give written approval for any building contractor selected by the Lot Owner for construction.

Prior to any construction on any Lot, the approval of the Committee must be obtained after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be made in the manner and form prescribed from time to time by the Committee in its guidelines and procedures which will contain requirements to promote the standard of quality of workmanship and design and harmony of external design with existing structures, location in relation to surrounding structures, topography and finish grade elevation as determined by the Committee.

Section 3. Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

(a) the plans, specifications, drawings or other material submitted are, themselves, inadequate or incomplete, or show the proposed improvement to be in violation of these Declarations, the plat restrictions or any rules, regulations or guidelines adopted by the Committee;

(b) the design or color scheme of a proposed improvement or the materials proposed to be used are not in harmony with the general surroundings of the Lot or with adjacent buildings or structures in the sole opinion of the Committee; or

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

Section 4. Duties of Committee. The Committee shall approve or disapprove proposed improvements within twenty-one (21) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and in the event that such notification is one of disapproval, it shall specify the reason or reasons therefor. In the event that the Committee fails to approve or disapprove such plans or to request additional information reasonably required within 45 days after submission of all required or requested information, the plans shall be deemed approved.

Section 5. No Waiver of Future Approvals. The approval of the Committee of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of such Committee, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matters whatever subsequently or additionally submitted for approval or consent.

Section 6. Variance. The Committee may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require, but only in accordance with duly adopted rules and applicable zoning laws, ordinances and regulations. Such variances may only be granted, however, when unique circumstances dictate and no

variance shall (a) be effective unless in writing, (b) be contrary to the restrictions set forth in the body of this Declaration, or (c) stop the Committee from denying a variance in other circumstances.

Section 7. Compliance with Guidelines. Any contractor, subcontractor, agent, employee or other invitee of a Lot Owner who fails to comply with the terms and provisions of the guidelines and procedures promulgated by the Committee may be excluded by the Board from the Real Estate without liability to any person, subject to the notice and hearing procedures contained in the Bylaws. Further, if any approval required by this Declaration is not granted in writing with respect to any item prior to its installation, the respective Owner thereof shall remove promptly the unapproved item or structure, upon request by Declarant or the Association.

Section 8. Non-Liability of Declarant, Committee. Neither the Declarant nor the Committee shall be responsible in any way for any defect in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Committee or the Declarant do not make, and shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used or as to the compliance of any plans submitted for approval with these Restrictions, any recorded plat governing the Real Estate or any applicable code, regulation or law.

Section 9. Inspection. The Committee and the Declarant may inspect work being performed to assure compliance with these Restrictions, the plat restrictions and applicable regulations. However, neither the Committee, nor any member thereof, nor the Declarant, nor any agent or contractor employed or engaged by the Committee or the Declarant, shall be liable or responsible for defects, nonconformity or deficiencies in any work inspected or approved by it or them, or on its or their behalf. Further, no such inspection or approval given by or on behalf of the Committee or the Declarant shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

Section 10. No Compensation. Neither the Committee nor any of its members shall be entitled to any compensation for performing its duties or obligations set forth in this Declaration.

Section 11. Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots shall be owned by the same Person, and such Owner shall desire to use two or more of said Lots as a site for a single Dwelling Unit, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as, and only so long as, the Lots remain improved with one single Dwelling Unit; provided, however, that any dues, fees or other charges shall be assessed against each Lot individually.

ARTICLE X
Use Restrictions/Covenants and Regulations

Section 1. Air Cooling Units. Air cooling Units or other like utilities that are outside of the residential structure must be located at the side or rear of the Dwelling Unit and except as may be permitted by the Committee. No window air conditioning Lots may be installed on any Lot.

Section 2. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Real Estate, except that dogs not exceeding 45 pounds, cats or other usual and common household pets not to exceed a total of two (2) may be permitted in a Lot. However, those pets which are permitted to roam free, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the Owner of any portion of the Real Estate shall be removed from the Real Estate upon request of the Board; if the Owner fails to honor such request, the pet may be removed by the Board. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Lot be confined on a leash held by a responsible person who shall clean up all waste.

Section 3. Antennas. No exterior antennas, aerials, satellite dishes, or other apparatus for the transmission of television, radio, satellite or other signals of any kind shall be placed, allowed, or maintained upon any portion of the Real Estate, including any Lot, without the prior written consent of the Board or its designee. Notwithstanding the foregoing, Declarant, its nominees, successors or assigns shall have the right, without obligation, to erect an aerial or satellite dish, or install other apparatus for a master antenna or cable system for the benefit of all or a portion of the Real Estate and satellite dishes no greater in size than 18" in diameter are permitted on the Real Estate so long as they are on the side or rear of a Dwelling Unit or screened from street view.

Section 4. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Real Estate. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with Article IX of this Declaration.

Section 5. Business Use. No garage sale, moving sale, rummage sale or similar activity and no trade or business may be conducted in or from any Lot, except that an Owner or occupant of a Lot may conduct business activities within the Lot so long as: (a) the existence or operation of the business activity is not apparent to detectable by sight, sound or smell from outside the Lot; (b) the business activity conforms to all zoning requirements for the Real Estate; (c) the business activity does not involve persons coming onto the Real Estate who do not reside in the Real Estate or door-to-door solicitation of residents of the Real Estate; and (d) the business activity is consistent with the residential character of the Real

Estate and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Real Estate, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor. Notwithstanding the above, the leasing of a Lot shall not be considered a trade or business within the meaning of this section. This section shall not apply to any activity conducted by the Declarant, its builders, agents and employees with respect to its development and sale of the Real Estate or its use of any Lots which such entity owns within the Real Estate.

Section 6. Clothesline, Garbage Cans, Tanks, Etc. All clothes, sheets, blankets, rugs, laundry clotheslines, garbage cans, mechanical equipment, and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets, and property located adjacent to the Lot. All fuel storage tanks outside a Dwelling Unit shall be installed below the surface of the ground. All rubbish, trash, and garbage shall be stored in appropriate containers approved by the Committee hereof and shall regularly be removed from the Real Estate and shall not be allowed to accumulate thereon. No Owner shall burn or permit burning out-of-doors of garage or other refuse.

Section 7. Diligence in Construction. Every building whose construction on any Lot is begun shall be completed within one hundred eighty days (180) after the beginning of such construction unless circumstances beyond the reasonable control of the builder and/or Owner prevent such completion. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage. The Declarant and/or Homeowners Association shall have standing and authority to seek an injunction or order for the removal of any materials and partially completed structures in violation of this covenant.

Section 8. Ditches and Swales and Erosion Control. It shall be the duty of the Owner of any Lot on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed (both by improvements and plant material) and in good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary. It shall be the duty of the Owner of any Lot to establish as needed and to maintain all erosion control on his or her respective Lot.

Section 9. Energy Conservation Equipment. No solar energy collector panels or attendant hardware or other energy conservation equipment shall be constructed or installed on any Lot unless it is an integral and harmonious part of the architectural design of a structure, as determined in the sole discretion of the Committee pursuant to Article IX of this Declaration.

Section 10. Fences. No hedges, walls, dog runs, animal pens or fences of any kind shall be permitted on any Lot except as approved in accordance with Article IX of this Declaration.

Section 11. Firearms. The discharge of firearms within the Real Estate is prohibited. The term "firearms" includes bows and arrows, slingshots "B-B" guns, pellet guns, and other firearms of all types, regardless of size. Notwithstanding anything to the contrary contained herein or in the Bylaws, the Association shall not be obligated to take action to enforce this Section.

Section 12. Ground Elevations and Erosion Control. It shall be the Lot Owner's responsibility to maintain and comply with all building and site finish ground elevations and erosion control as finally required and approved by the Johnson County Drainage Board and the Department of Planning and Zoning as evidenced upon the final construction plans for the development of this subdivision.

Section 13. Heating Plant. Every Dwelling Unit must contain a heating plant installed in compliance with the applicable codes and capable of providing adequate heat for year-round human habitation of the Dwelling Unit.

Section 14. Insurance Impact. Nothing shall be done or kept by an Owner in any Dwelling Unit, or on any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance on any Common Areas. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot which will result in a cancellation of insurance on any part of the Common Areas, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

Section 15. Landscaping. No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas or any portion of a Lot not designated by Declarant as a landscaped area, except with express permission from the Board. All landscaping plans are subject to Committee approval in accordance with the guidelines and procedures promulgated by the Committee. The Committee may, in its discretion, modify such plans to promote the integrity and the aesthetic appearances of this subdivision. Finished grading of all yards must be completed within 15 days after the dwelling is constructed, weather permitting, and all yards must be seeded or sodded with grass within ten days after the completion of finish grading, weather permitting; provided, however, the foregoing landscaping requirements shall not apply for completions occurring during the winter months of November through March of each year, such requirements being suspended until the end of

such winter months. Trees provided by the Declarant, if any, will be protected by Owner during construction and replaced within 30 days if damaged or if a tree should die as a result of Owner's construction.

Section 16. Landscape Easements. There are strips and areas of ground shown marked "Landscape Easement" on the Final Plat for the Real Estate which are hereby reserved for the use of Owners of Lots to the extent and limited for the purposes set forth in the Declaration and for the use of Declarant and Association for the installation, maintenance, repair and replacement of fences, walls, landscaping, other screening material, street directories, street signs, water wells and other items requiring maintenance. Except as installed and maintained by Lot owners, pursuant to the requirements of the Declarations, or by Declarant and the Association, no permanent or other structure (except walls, sidewalks and fences otherwise permitted hereby or by the Declaration and approved by the Committee) shall be erected or maintained on said strips and areas by the Owner of any Lot subject to any such "Landscape Easement", and the Owners of such Lots affected by any such "Landscape Easement" shall take and hold title to their Lots subject to the foregoing rights of the Declarant and the Association and shall not do or permit to be done anything which will obstruct or interfere with or remove any installations or landscaping made by the Declarant or Association in any such "Landscape Easement". The foregoing grant of rights to the Declarant shall not impose an obligation on the Declarant to undertake such maintenance unless it elects to do so.

Section 17. Lighting. Except for seasonal holiday decorative lights, which may be displayed between December 1 and January 10 only, all exterior lights must be approved in accordance with Article IX of this Declaration.

Section 18. Maintenance of Lots and Improvements. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the forgoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Real Estate. No waste shall be committed in any Dwelling or on any Lot.

Section 19. Minimum Building Size. Each Dwelling Unit shall have a minimum size of 1,100 square feet.

Section 20. Model Homes. No Owner of any Lot shall build or permit the building upon his Lot or any Dwelling Unit that is to be used as a model home or exhibit house without permission to do so from the Declarant.

Section 21. Occupancy and Residential Use of Partially Completed Dwelling House Prohibited. No Dwelling Unit constructed on any of the Lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The

determination of whether the Dwelling Unit shall have been substantially completed shall be made by the Committee and such decision shall be binding on all parties.

Section 22. Other Exterior Attachments. No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his or her Dwelling Unit or placed on the outside walls of any building, and no awning, canopy, shutter or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Committee unless otherwise expressly authorized herein, or in any recorded subdivision plat, or by the rules, regulations and guidelines of the Committee.

Section 23. Parking and Prohibited Vehicles.

(a) **Parking.** Vehicles shall be parked only in the garages or in the driveways, if any, serving the Lots. Parking (of automobiles only) is allowed on dedicated streets only when an Owner has a social function and the invited guests will not be able to park on such Owner's Lot. No overnight parking shall be permitted on any dedicated street.

(b) **Prohibited Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trucks weighing in excess of three-quarters of a ton, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft and boat trailers shall be parked only in enclosed garages. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Real Estate except within enclosed garages. For purposes of this Section, a vehicle shall be considered "stored" if it is put up on blocks or covered with a tarpaulin and remains on blocks or so covered for fourteen (14) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Real Estate for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot. Any vehicle parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with the Bylaws.

(c) **Garages and Driveways.** No dwelling shall have less than a full size one-car or more than a two-car attached garage, unless otherwise approved by the Committee.

Section 24. Playground. Any playground or other play areas or equipment furnished by the Association or erected within the Real Estate shall be used at the risk of the user, and the Association shall not be held liable to any Person for any claim, damage, or injury occurring thereon or related to use thereof.

Section 25. Private Water Systems. No private, or semi-private, water supply may be located upon any Lot which is not in compliance with regulations or procedures as provided by the applicable public health agencies, or other civil authority having jurisdiction, approved

by the Committee and restricted to use in connection with a sprinkler system or geothermal heating and cooling system.

Section 26. Prohibition of Used Structures. All structures constructed or placed on any Lot shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

Section 27. Quiet Enjoyment. No portion of the Real Estate shall be used, in whole or in part, for the storage or any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Real Estate that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious, illegal, or offensive activity shall be carried on upon any portion of the Real Estate. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet and/or comfort of the Owners or allow any such noise or disturbance to be made on his or her Lot, including any noise by the use of musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other machines or equipment. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way obnoxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Real Estate. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Real Estate.

Section 28. Residential Use. The Lots shall be used only for single family residential purposes; provided, however, that such restriction shall not apply to any Lot or part thereof or any other part of the Real Estate at any time owned by the Association which constitutes a part of the Common Areas and upon which no Dwelling Unit is located, and shall not apply to the Commercial Tract.

Section 29. Sales Office. To the extent deemed necessary or desirable by the Declarant, its builders, agents and employees shall be permitted to place sales offices and construction and storage facilities for uses attributable to the construction, development, marketing and maintenance of the subdivision on any unsold Lot or on any Common Area.

Section 30. Sanitary Waste Disposal.

A. **Nuisances.** No outside toilets shall be permitted on any Lot (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other wastes shall be permitted to be exposed.

B. **Construction of Sanitary Sewage Lines.** All sanitary sewage lines on the Lots shall be designed, constructed and installed in accordance with the provisions and requirements of the Johnson County, Greenwood Sanitation Department, and these Restrictions.

C. **Connection Requirements for Sanitary Sewers.** All Dwelling Units shall have sewers directly connected by way of gravity except by the use of lift pumps and/or check valves or connections shall be one foot above the lowest manhole in the Subdivision.

Section 31. Signs. No sign of any kind shall be erected within the Real Estate without the written consent of the Board of Directors, except entry and directional signs installed by Declarant and such signs as may be required by legal proceedings. If permission is granted to any Person to erect a sign within the Real Estate, the Board reserves the right to restrict the size, color, lettering and placement of such sign. The Declarant or the Board of Directors shall have the right to erect signs as they, in their discretion, deem appropriate. Signs advertising property for rent are specifically prohibited. Violation of this sign restriction will result in Fifty Dollars (\$50.00) per day liquidated damages payable to the Declarant until such time as the Association owns and is responsible for the maintenance of the Common Areas, at which time such liquidated damages shall be payable to the Association. The Declarant and/or Association shall approve all signs deemed appropriate by the Committee advertising properties for sale, which signs shall be uniform in design and placed as the Committee shall determine proper.

Section 32. Sight Distance at Intersections. All property located at street intersections shall be landscaped so as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain where it would create a traffic or sight problem.

Section 33. Swimming Pools. Swimming pools must have the approval of the Committee before any work is undertaken. No above ground swimming pools shall be allowed, provided nothing herein shall preclude installation and use of hot tubs, spas, jacuzzis or similar apparatus with prior approval of the Committee. Permanent backyard pools will be approved by the Committee only after careful consideration of the potential effect of such a pool in neighboring properties. An application for the construction of a swimming pool will not be considered unless the application is accompanied by an application for acceptable fence or other safety protection and landscape design approval. The design of such fence shall conform to county or municipal regulations for such fencing. Use of plantings in the vicinity of the proposed pool may be required to soften the effect of sound and required pool fencing on adjacent properties.

Section 34. Tents, Trailers and Temporary Structures. Except as may be permitted by the Declarant or the Committee during initial construction within the Real Estate, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Lot or the Common Areas.

Section 35. Tree Removal. No trees shall be removed, except for diseased or dead trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article IX of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required by the Committee to

replace the removed tree with one (1) or more trees of such size and number, and in such locations, as the Committee may determine in its sole discretion.

Section 36. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Real Estate, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

Section 37. Declarant's and the Association's Right to Perform Certain Maintenance and Removal. In the event that any Owner of a Lot shall fail to maintain his Lot and any improvements for which such Owner is responsible; or remove any unauthorized item or structure, situated thereon in accordance with the provisions of these Restrictions and the provisions of any recorded plat of the Real Estate, the Declarant, until the Applicable Date, and, thereafter, the Association through its agents and employees or contractors, shall have the right to enter upon said Lot and repair, clean, remove or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these Restrictions and the provisions contained in any such plat. The cost thereof to the Declarant or the Association shall be collected as a special assessment against such Owner and his Lot in the manner provided for herein for the collection of Common Expenses. Neither the Declarant nor the Association, nor any of its agents, employees or contractors, shall be liable for any damage which may result from any maintenance work performed hereunder.

Section 38. Non-applicability to Association. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in this Article X shall not apply to or be binding upon the Association in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Areas to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Association in the performance of its duties, obligations and responsibilities as to the Common Areas.

Section 39. Occupants Bound. All provisions of the Declaration, Bylaws and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Owner. Every Owner shall cause all occupants of his or her Lot to comply with the Declaration, Bylaws and the rules and regulations adopted pursuant thereto, and shall be responsible for all violations and losses to the Common Areas caused by such occupants, notwithstanding the fact that such occupants of a Lot are fully liable and may be sanctioned for any violation of the Declaration, Bylaws and rules and regulations adopted pursuant thereto.

ARTICLE XI Assessments

Section 1. Annual Accounting. Annually, after the close of each fiscal year of the Association and prior to the date of the annual meeting of the Association next following the end of such fiscal year, the Board shall cause to be prepared and furnish the Owners with a financial statement of operations by the Association, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 2. Proposed Annual Budget. Annually, on or before the date of the annual or special meeting of the Association at which the budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total amount of the Common Expenses for such next ensuing fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual or special meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual or special meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next ensuing fiscal year. At such annual or special meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners attending such meeting; provided, however, that in no event shall such annual or special meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Areas. Such replacement reserve fund for capital expenditures and replacement repair of the Common Areas shall be maintained by the Association in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Johnson County or Marion County, Indiana selected from time to time by the Board. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual or special meeting of the Association at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 3. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the fiscal year covered thereby as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot, provided, however, Lots owned by Declarant and its builders shall not be subject to assessment. Immediately following the adoption of the annual budget, each Owner shall be given written notice of the assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, each Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in full in advance by a date specified by the Board which date shall not be earlier than fifteen (15) days after the written notice of such Regular Assessment is given to the Owners. However, at the option of the Board, the Regular Assessment against each Lot may be paid in advance in equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the Regular Assessment, whether in one payment or in quarterly installments, shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors. In the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget,

(a) if the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment and such next payment, and all payments thereafter during such fiscal year, whether annual or quarterly, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

(b) if the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, whether annual or quarterly, until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid his Regular Assessment in full in advance, then the adjustments set forth under (a) or (b) above shall be made by a cash payment by, or refund to, the Owner or the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners. The Regular Assessment for each fiscal year of the Association shall become a lien on each separate Lot as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are

finally determined, approved and adjusted as herein provided, sells, conveys or transfer his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Regular Assessment for the Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association pursuant to Section 2 of Article X hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year with respect to which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Annual or quarterly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

Section 4. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the Bylaws or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot in the amount of its Proportionate Share (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

Section 5. Failure of Owner to Pay Assessments.

(a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expenses of administration and of maintenance and repair of the Common Areas and items deemed Common Areas for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments against his Lot. Where the Owner constitutes or consists of more than one Person, the liability of such Persons shall be joint and several. Regular and special assessments should constitute a lien against the Lots and Dwelling Units thereon. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments against his Lot when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Association as a mortgage on real property or as otherwise provided or permitted by law. Upon the failure of an Owner to make timely payments of any such Regular Assessments or Special Assessments, when due, the

Board may, in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot and Dwelling Unit which are the subject of such action shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby waiving) the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, or any other charges due the Association, whether by foreclosure or otherwise, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to the "prime interest rate" then in effect as publicly announced or published by NBD Bank, N.A. or its successors (or if said Bank is no longer in existence, then such rate charged by another national bank in Marion County, Indiana selected by the Board) plus 4% but in no event more than the maximum rate allowable under applicable usury laws.

(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the Bylaws, any sale or transfer of a Lot and Dwelling Unit to a Mortgagee pursuant to a foreclosure on its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment or other charges as to such installments which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments or other charges thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments or other charges, the lien for which has been divested as aforesaid, shall, if not collected from the party personally liable therefor, be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot and Dwelling Unit from which it arose).

Section 6. Initial Budgets and Assessments. Notwithstanding anything to the contrary contained herein, in the Articles, in the Bylaws, in the Act or otherwise, until the Applicable Date the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without meetings of or concurrence of the Owners. The

agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 2 of Article V hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessments until the Applicable Date.

Section 7. Builder Assessments and Maintenance. Until the Applicable Date, no Regular Assessments, Special Assessments or other charges shall be owed or payable by the Declarant, or its builders (except as provided below), with respect to any Lot or other portion of the Real Estate owned by them, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by the Declarant or its builders, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by the Declarant. Assessments against a Lot shall commence to accrue from the date each Lot is conveyed by Declarant or its builders to another Person, and a prorated portion of the Regular Assessment for the balance of the fiscal year of the Association against each Lot so conveyed by the Declarant or its builders shall be paid by each purchaser upon such conveyance. Upon the conveyance of any Block or Lot by the Declarant to any of its builders, the builder shall be exempt from assessments as provided above until the builder conveys the Lot to any Person, at which time the assessment shall begin to accrue. So long as any assessments are not accruing against a Lot or Block owned by a builder, the builder shall maintain the landscaping, common areas and limited common areas associated with such Block or Lot. In the event that any builder fails to provide such maintenance, the Association or the Declarant, upon 30 days prior written notice to the builder, may conduct such maintenance and charge the same to the builder and his Block or Lots as a Special Assessment.

Section 8. Initial Working Capital and Start-Up Fund. Upon the closing of the initial conveyance of each Lot by the Declarant to another Person, the purchaser of such Lot shall pay to the Association, in addition to any other amount then owed or due to the Association, as a contribution to its working capital and start-up fund, an amount equal to one-sixth (1/6th) of the then current annual Regular Assessment against such Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any Assessment or other charge owed the Association with respect to such Lot. Such working capital and start-up fund shall be held and used by the Association for payment of, or reimbursement to Declarant for advances made to pay, expenses of the Association for its early period of operation of the Real Estate, to enable the Association to have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary by the Board.

ARTICLE XII Mortgages

Section 1. Notice to Association. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Association thereof and provide the name and address of the Mortgagee. A record of each such first mortgage, and name and address of the Mortgagee, shall be maintained by the Secretary and any notice required to be

given to the Mortgagee pursuant to the terms of this Declaration, the Bylaws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the Bylaws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the Bylaws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Association shall, upon request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the Bylaws which is not cured within sixty (60) days.

Section 2. Notice of Unpaid Assessments. The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement except as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article IV hereof.

ARTICLE XIII Party Walls

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of a Building and placed on the dividing line between the Lots thereon shall constitute a party wall, to the extent not consistent with the provisions of this Article, the general rules of law of the State of Indiana regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. The Lot Owners shall each maintain at all times their respective sides of the common party wall, and no Lot Owner shall make any modifications or alterations to the common party wall or the roof or take any other action, which diminishes or reduces the structural integrity of the common party wall or the roof.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Lot 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 to the

extent the Association does not receive insurance proceeds, 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 or law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, a Lot 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 Lot Owner to a contribution from any other Lot Owner under this Article shall be appurtenant to the land and shall pass to such Lot Owner's successors in title.

Section 6. Encroachments. If any portion of the Common Areas or common walls encroaches upon any Lot, or if any Dwelling Unit encroaches upon any other Lot, or upon any portion of the Common Areas, as a result of the construction of a Building, or if any such encroachment shall occur hereafter as a result of settling or shifting of the Buildings, a valid easement for the encroachment and for the maintenance of same shall exist. In the event any Dwelling Unit or adjoining Common Area shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, encroachments of part of the Common Areas upon any Lot, or of any Dwelling Unit upon any other Lot or upon any portion of the Common Areas due to such rebuilding shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the Building shall stand. Each Block is divided into two or four Lots. To the extent that common walls within each Building on a Block are not located upon the internal Lot lines dividing the Block, such Lot lines shall be deemed changed so as to be located within the centerline of each common party wall.

Section 7. Dispute. In the event of any dispute arising concerning a party wall, or other provisions of this article, such dispute shall be determined by the Association.

ARTICLE XIV Insurance

Section 1. Casualty Insurance. The Association shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Common Areas in an amount consonant with the full replacement value of the improvements which, in whole or in part, comprise the Common Areas. In addition, the Association shall purchase a master casualty insurance policy with an "agreed amount and inflation guard endorsement" and a "blanket building endorsement" affording fire and extended coverage insurance insuring each Building and each Dwelling Unit in an amount consonant with the full replacement value of

the improvements, which, in whole or in part, comprise the Dwelling Units, excluding all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by any Lot Owner and excluding any personal property owned by any Lot Owner wherever located on any Lot, Limited Common Area or elsewhere. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Association as the insured, for the benefit of each Owner (to the extent, if any, that individual Owners have an independent interest in the property covered thereby).

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Association as hereinabove set forth shall be paid to it or to the Board of Directors. In the event that the Board of Directors has not posted surety bonds for the faithful performance of their duties as such Directors or if such bonds do not exceed the funds which will come into its hands, and there is damage to a part or all of the Common Areas resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by the Board, but not less than 150% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty on the Board in connection with any such insurance proceeds shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or distributed by the Association or the Board, as appropriate, only in accordance with the provisions of this Declaration.

Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Association does not elect to restore.

Section 2. Public Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any event with a minimum combined limit of \$1,000,000.00 per occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Areas and shall insure the Association, the Board of Directors, any committee or organ of the Association or Board, any Managing Agent

appointed or employed by the Association, the Declarant, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate, all Owners of Lots and all other persons entitled to occupy any Lot or Dwelling Unit. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners.

Section 3. Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors may from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned or leased by the Association and officers' and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, the Board of Directors and any Managing Agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Association.

Section 4. General Provisions. The premiums for all insurance hereinabove described shall be paid by the Association as part of the Common Expenses. Upon request of any Owner or Mortgagee whose interest may be affected thereby, the Association shall provide such Owner or mortgagee with a description of the insurance coverage maintained by the Association.

In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance or insurance policy as it applies to such Owner's share of such proceeds. In such event any remittances shall be to the Owner and his Mortgagee jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Areas. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Association to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Association; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Association for use in the payment of its expenses of operation.

Section 5. Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, the contents fixtures, improvements, furnishings, floor, ceiling and wall coverings of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association.

ARTICLE XV
Casualty and Restoration; Condemnation

In the event of damage to or destruction of the structure and exterior of any Building or Dwelling Unit, or any of the Common Areas, due to fire or any other casualty or disaster, the Association shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Association, if any, shall be applied to the cost of such repair and reconstruction.

If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Building, Dwelling Unit or Common Areas so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Association against all of the Lot Owners in accordance with their Proportionate Share. Any such amounts assessed against the Lot Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Building, Dwelling Unit or Common Areas to as near as possible the same condition as they existed immediately prior to the damage or destruction and with the same architecture and materials.

Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Association has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to replace the damaged property in a condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary.

Encroachments upon any Lot which may be created as a result of such reconstruction or repair of any Dwelling Unit or Common Areas shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Lot such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Building or Common Areas were originally constructed.

Section 1. Total or Partial Condemnation. (a) In the event of the condemnation of all or any part of the Common Areas or of all or any part of any Building, Dwelling Unit or Lot, the Board is hereby authorized to negotiate with the condemning authority and/or to contest an award made for the appropriation of such Common Areas, Building or Dwelling Units. For the purpose of such negotiation and/or of contest of such award to the Board as to

Buildings and Dwelling Units and Areas, the Board is hereby declared to be the agent and attorney-in-fact of any Lot Owner affected by the condemnation. This appointment of the Board shall be deemed coupled with an interest and shall be irrevocable. Nothing contained herein, however, shall preclude any Lot Owner from asserting any rights or claims to compensation which cannot be legally asserted by the Board.

(b) Awards for the taking of all or part of a Building, Dwelling Unit or Lot shall be collected by the Board and distributed to the affected Lot Owners. To the extent possible, negotiated awards or awards resulting from a contest shall specify the allocation of the award among Lot Owners affected. In the event that an Owner does not agree with the distribution of an award, said Lot Owner shall be entitled to have the dispute settled by arbitration. The protesting Owner shall appoint one arbitrator, the Board acting as agent for all other affected Owners shall appoint one arbitrator and the two appointed arbitrators shall appoint a third arbitrator. A majority decision of the arbitrators shall be binding on all Lot Owners and shall be enforceable.

ARTICLE XVI Annexation

The Declarant hereby reserves the right, from time to time and at any time, to annex any portion of adjacent real estate into Heron Ridge. As of the date on which the Declarant annexes any portion of adjacent real estate into the subdivision (the "Annexed Real Estate"), the Annexed Real Estate shall be deemed to be (for all purposes) included within Heron Ridge; all references in these covenants and restrictions or in the Declaration to "Heron Ridge" shall be deemed to include the Annexed Real Estate; all references in these covenants and restrictions or in the Declaration to "Real Estate" shall be deemed to include all parcels of land within the Annexed Real Estate; all references in these covenants and restrictions or in the Declaration to "Lots" shall be deemed to include all Lots within the Annexed Real Estate; and all easements created by these covenants and restrictions or in the Declaration shall bind, benefit, burden and run with the Annexed Real Estate. As of the date on which the Declarant annexes any portion of the adjacent real estate into Heron Ridge, the Owners of the Annexed Real Estate shall be deemed to be (for all purposes) Owners of Lots within Heron Ridge; all references in these covenants and restrictions or the Declaration to "Owner(s)" shall be deemed to include all Owners of Lots within the annexed Real Estate; and all easements created herein shall bind, benefit and burden the Owners of Lots within the Annexed Real Estate and the mortgages, grantees, heirs, assigns and successors of such Owners, as provided herein. In the event of such annexation, Heron Ridge shall have the option of creating a separate lake or drainage system to be maintained only by the Owners of Lots in the annexed Real Estate.

ARTICLE XVII
Amendment of Declaration

Section 1. Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

(a) **Notice.** Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

(b) **Resolution.** A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.

(c) **Meeting.** The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the Bylaws.

(d) **Adoption.** Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75% in the aggregate of the votes of all Owners). In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.

(e) **Special Amendments.** No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of Article XI of this Declaration with respect to casualty insurance to be maintained by the Association, or (3) the provisions of Article XII of this Declaration with respect to reconstruction or repair of the Common Areas in the event of fire or any other casualty or disaster, or (4) the provisions of this Declaration establishing the Committee and providing for its functions, without, in each or any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of the Declaration.

(f) **Recording.** Each amendment to the Declaration shall be executed by the President and Secretary of the Association and shall be recorded in the office of the Recorder of Johnson County, Indiana, and such amendment shall not become effective until so recorded.

Section 2. Amendments by Declarant Only. Notwithstanding the foregoing or anything else contained herein, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Association, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if the Declarant records the modification in the

Office of the Recorder of Johnson County, Indiana, and if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Association, the Department of Housing and Urban Development, the Veterans Administration, or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any governmental requirements, (d) to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus or organizations which perform (or may in the future perform) function similar to those performed by such agencies or entities, (e) to subject additional property to these Restrictions, (f) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto, (g) to clarify, further define or limit any easement, or otherwise exercise any rights reserved herein, or (h) change the substance of one or more covenants, conditions, terms or provisions hereof but (A) does not materially increase the obligation(s) of any Owner under any covenant, condition, term or provision without such Owner's consent or (B) is necessary to comply with a bona fide governmental requirement, including applicable laws, ordinances, regulations or orders of any municipality or court having jurisdiction. In furtherance of the foregoing, a power coupled with an interest is hereby reserved by (and granted by each Owner to) the Declarant to vote in favor of, make, or consent to any amendments described in this Section 2 or behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section 2 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

ARTICLE XVIII Acceptance and Ratification

All present and future Owners, Mortgagees, tenants and occupants of the Lots and Dwelling Units, and other Persons claiming by, through or under them, shall be subject to and shall comply with the provisions of this Declaration, the Articles, the Bylaws and the rules, regulations and guidelines as adopted by the Board of Directors and (to the extent of its jurisdiction) the Committee, as each may be amended or supplemented from time to time. The acceptance of a deed of conveyance of the act of occupancy of any Lot or Dwelling Unit shall constitute an agreement that the provisions of this Declaration, the Articles, the Bylaws and rules, regulations and guidelines, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, 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 an Lot or Dwelling Unit or the Real Estate, all as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All

Persons who may own, occupy, use, enjoy or control a Lot or Dwelling Unit or any part of the Real Estate in any manner shall be subject to this Declaration, the Articles, the Bylaws, and the rules, regulations and guidelines applicable thereto as each may be amended or supplemented from time to time.

ARTICLE XIX Negligence

Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family his or their guests, employees, agents, invitees or lessees, to the extent that such expense is not covered by the proceeds of insurance carried by the Association. An Owner shall pay the amount of any increase in insurance premiums occasioned by his violation of any of the Restrictions or any violation thereof by any member of his family or his or their guests, employees, agents, invitees or tenants.

ARTICLE XX Benefit and Enforcement

Section 1. Covenants Appurtenant to Land. These covenants are to run with the land, and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless at any time after the later of fifteen (15) years or the Applicable Date a majority, based upon the aggregate number of Lots of Class A and Class B Members agree to change (or terminate) said covenants in whole or in part and on the condition that an instrument to that effect signed by the Lot Owners voting in favor of such change has been recorded; provided, however, that no change or termination of said covenants shall affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent thereto.

Section 2. Prosecution of Violations. It shall be lawful for the Association, the Committee (as to matters for which it has responsibility) or any other person owning any real property situated in this subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any covenant, conditions, provisions or restrictions contained herein either to prevent such person or persons from doing so, or to recover damages or other dues for such violation, or to require the removal of structures erected in violation hereof. All costs of litigation and attorneys' fees resulting from violation of these covenants and restrictions shall be the financial responsibility of the Lot Owner or Owners found to be in violation. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect. Failure to enforce any specific requirement of the covenant shall not be considered

as a waiver of the right to enforce any covenant herein, thereafter. Notwithstanding the foregoing, any violation of these covenants or the Declaration may be waived by a majority of the then Owners of the Lots in this subdivision.

ARTICLE XXI
Non-Liability of Johnson County Drainage Board

The Johnson County Drainage Board shall not be responsible in any way for, and disclaims any liability for, any defect in any plans, specifications or other materials approved by it in connection with the storm drainage system for the subdivision, or for any defects in the construction thereof.

ARTICLE XXII
Miscellaneous

Section 1. Costs and Attorneys' Fees. In any proceeding arising because of failure of an Owner to make any payments required by this Declaration, the Articles or the Bylaws, or to comply with any provision of this Declaration, the Articles, the Bylaws, or the rules, regulations and guidelines adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its costs and reasonable attorneys' fees incurred in connection with such default or failure.

Section 2. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use of enjoyment of any of the Common Areas or by abandonment of his Lot or Dwelling Unit.

Section 3. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the Bylaws and each shall be enforceable to the greatest extent permitted by law.

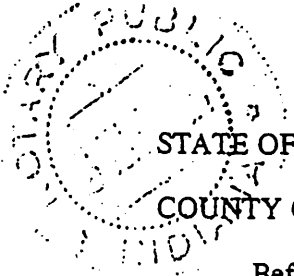
Section 4. Pronouns. Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires the contrary, be deemed to refer to and include all genders. Words in the singular shall include and refer to the plural, and vice versa, as appropriate.

Section 5. Interpretation. The captions and titles of the various articles, sections, sub-sections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.

IN WITNESS WHEREOF, Declarant, Heron Ridge, LLC, by its duly authorized Manager, has executed this Declaration on the day and year first hereinabove set forth.

HERON RIDGE, LLC

By: *J. Greg Allen*
J. Greg Allen, Manager



STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

Before me, a Notary Public in and for said County and State, personally appeared J. Greg Allen, the Manager of Heron Ridge, LLC, who acknowledged the execution of the above and foregoing instrument for and on behalf of said limited liability company, and, who having been duly sworn, stated that any representations contained therein are true.

WITNESS my hand and Notarial Seal this 28th day of January, 1999.

My Commission Expires:
2-1-99

Kimberly J. Hutchinson
Notary Public
Printed Kimberly J. Hutchinson
Resident of Hendricks County

This instrument was prepared by Robert T. Wildman
HENDERSON, DAILY, WITHROW & DEVOE
2600 One Indiana Square
Indianapolis, Indiana 46204
(317) 639-4121

EXHIBIT "A"

HERON RIDGE

LEGAL DESCRIPTION HERON RIDGE

A part of the Southeast Quarter of the Southeast Quarter of Section 2, Township 13 North, Range 3 East of the Second Principal Meridian, Johnson County, Indiana, being more particularly described as follows:

COMMENCING at the Southeast corner of said Quarter Quarter Section, said point being marked by a PK Nail found and being referenced by the Johnson County Surveyor; thence North 89 degrees 48 minutes 24 seconds West (Basis of Bearings being the Final Plat of Buckmoor Manor - Section One (Plat Book "11", Page 25, Office of the Johnson County Recorder) along the South line of said Quarter Quarter Section 639.67 feet to the POINT OF BEGINNING of the herein described parcel; thence continuing North 89 degrees 48 minutes 24 seconds West along the South line of said Quarter Quarter Section 485.44 feet, said point also being the Southeast corner of the Alyea Subdivision (Plat Book "10", Page 25, Office of the Johnson County Recorder); thence North 02 degrees 02 minutes 21 seconds East along the East Line of said Alyea Subdivision 217.91 feet to the Northeast corner of said Alyea Subdivision; thence North 89 degrees 48 minutes 24 seconds West along the North line of said Alyea Subdivision and parallel with the South Line of said Quarter Quarter 200.00 feet to the West Line of said Quarter Quarter Section, said point also being the Northwest corner of said Alyea Subdivision; thence North 02 degrees 02 minutes 21 seconds East along said West Line and along portions of the East line of Olive Branch Manor - Section Two (Plat Book "C", Pages 614 "A & B", Office of the Johnson County Recorder) and Olive Branch Manor - Section One (Plat Book "C", Pages 613 "A-C", Office of the Johnson County Recorder) 1116.72 feet to the North Line of said Quarter Quarter, said point also being the Northeast corner of said Olive Branch Manor - Section One, said point also being on the South line of Buckmoor Manor - Section Two (Plat Book "C", Pages 195-196, Office of the Johnson County Recorder); thence South 89 degrees 54 minutes 49 seconds East along said North Line and said South line of Buckmoor Manor - Section Two and the South line of said Buckmoor Manor - Section One 456.79 feet to the Southwest corner of Lot 38 of said Buckmoor Manor - Section One; thence North 33 degrees 05 minutes 17 seconds East along the west line of said Lot 38 a distance of 4.39 feet; thence South 89 degrees 46 minutes 32 seconds East 116.06 to a point on the common lot line of Lots 38 and 39 of said Buckmoor Manor - Section One, said point being 3.41 feet north of the North Line of said Quarter Quarter Section; thence North 88 degrees 43 minutes 48 seconds East 60.02 feet to a point on the common lot line of Lots 39 and 40 of said Buckmoor Manor - Section One, said point being 4.83 feet north of the North Line of said Quarter Quarter Section; thence North 88 degrees 38 minutes 15 seconds East 50.46 feet; thence South 02 degrees 02 minutes 21 seconds West parallel with the West line of said Quarter Quarter 1342.01 feet to the POINT OF BEGINNING, containing 20.01 acres, more or less.

Subject to all legal rights-of-way, easements and restrictions.

SHEET 1 of 1



MAURER & ASSOCIATES, INC.

LAND DEVELOPMENT, SURVEYING, and BUILDER'S SERVICES
• 3425 West County Line Road • Greenwood, IN 46142 •

Recorded Johnson County, Indiana
Jean Harwin, Recorder
Date 09/27/1999 Time 13:44:27 1 of 2 Pgs
Inst # 1999-025426 OFT
Fee Amt: 13.00

FIRST AMENDMENT TO
DECLARATION OF COVENANTS AND RESTRICTIONS OF
HERON RIDGE SUBDIVISION

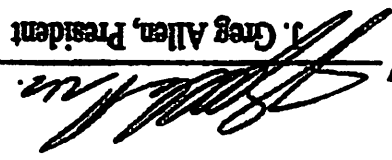
Heron Ridge, LLC, the Declarant and Owner of at least 75% of the lots in Heron Ridge Subdivision, has approved and adopted the following amendment to the Declaration of Covenants and Restrictions of Heron Ridge Subdivision recorded as instrument #1999-003375 on January 28, 1999, in the Office of the Recorder of Johnson County, Indiana (the Declaration).

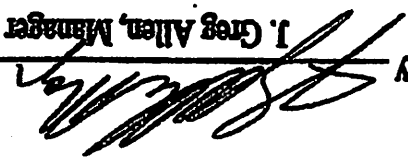
1. Article X is amended by adding Section 40 which shall provide as follows:
"Section 40. The Subdivision is intended to be a senior housing project with not less than 80% of the Dwelling Units occupied by at least one person who is 55 years of age or older. Failure to comply with this covenant shall not cause a termination or reversion of title to any Dwelling Unit."

2. Except as provided herein, the Declaration continues unamended and in full force and effect.

This First Amendment has been duly adopted and approved in accordance with the Declaration effective as of August 10, 1999.

"ASSOCIATION"
Heron Ridge Homeowners' Association, Inc.
"DECLARANT"
Heron Ridge, LLC

By 
J. Greg Allen, President

By 
J. Greg Allen, Manager

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

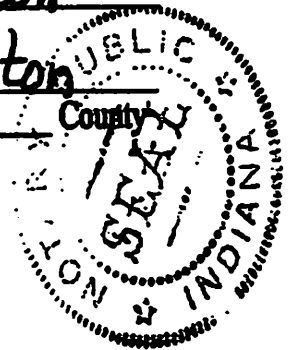
Before me, a Notary Public in and for said County and State, personally appeared J. Greg Allen, the President of Heron Ridge Homeowner's Association and the Manger of Heron Ridge, LLC, who acknowledged the execution of the foregoing Contract For Purchase of Real Estate and who, having been duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this 13th day of August, 1999.

My commission expires:

4-1-08

Melva J. Thornton
Notary Public
Printed: Melva J. Thornton
Resident of Johnson County



STATE OF INDIANA)
) SS:
COUNTY OF Johnson)

Before me, a Notary Public in and for said County and State, personally appeared J. Greg Allen, the President of Heron Ridge Homeowner's Association and the Manger of Heron Ridge, LLC, who acknowledged the execution of the foregoing Contract For Purchase of Real Estate and who, having been duly sworn, stated that any representations contained therein are true.

Witness my hand and Notarial Seal this 13th day of August, 1999.

My commission expires:

4-1-08

Melva J. Thornton
Notary Public
Printed: Melva J. Thornton
Resident of Johnson County



Recorded Johnson County, Indiana
Sue Anne Misiniec, Recorder
Date 04/08/2003 Time 14:17:45 1 of 3 Pgs
Inst # 2003-014306 OFF
Fee Amt: 13.00

[SECOND]
AMENDMENT TO:
Instrument # 1999-003375 D171
Recorded in Johnson County, Indiana

DECLARATION OF COVENANTS AND RESTRICTIONS
OF
HERON RIDGE SUDVISION

.....

..

In accordance with Article XVII, Section 1 of the Declaration of Covenants and Restrictions of Heron Ridge Subdivision and having obtained greater than 85% in the aggregate of the votes of all Owners, the Board of Directors is changing Article V, Section 4 as follows:

Section 4 Term of Office and Vacancy The Heron Ridge Board of Directors shall consist of five (5) members. The first election of Directors will occur in May 2003. The three (3) Board members receiving the most votes will be elected for a term of two (2) years. Future elections for the three (3) Board members will take place in odd numbered years. i.e. 2005, 2007. The two (2) Board members elected in 2003 with the fewest votes will be elected for a term of one (1) year. Future elections for the two (2) Board member positions will occur in even-numbered years: i.e. 2004, 2006, for a term of two (2) years. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified.

Should a vacancy or vacancies occur in the Board, these vacancies shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy.

Recorded Johnson County, Indiana:
Sue Anne Hissiniec, Recorder
Date 09/30/2003 Time 11:30:27 1 of 3 Pg:
Inst # 2003-041865 OFF
Fee Amt: 15.00

[THIRD]

**AMENDMENT TO
Instrument # 1999-003375
Recorded in Johnson County, Indiana**

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

HERON RIDGE SUBVISION

plot cabinet D page 171

In accordance with Article XVII, Section 1 of the Declaration of Covenants and Restrictions of Heron Ridge Subdivision and having obtained 87% in the aggregate of the votes of all Owners, the Board of Directors is changing Article XIV, Section 1., paragraph 1 (Insurance) as follows:

The Association shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Common Areas in an amount consonant with the full replacement of the improvements which, in whole or in part, comprise the Common Areas. In addition, the Association shall purchase a master casualty insurance policy with an "agreed amount and inflation guard endorsement" and a "blanket building endorsement" affording fire and extended coverage insurance insuring each Building and each Dwelling Unit in an amount consonant with the full replacement value of the improvements, which, in whole or in part, comprise the Dwelling Units, including bath and kitchen cabinetry, HVAC and water heaters in each unit, but excluding all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by any Lot Owner and excluding any personal property owned by any Lot Owner wherever located on any Lot, Limited Common Area or elsewhere. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Association as the insured, for the benefit of each Owner (to the extent, if any, that individual Owners have an independent interest in the property covered thereby).

IN WITNESS WHEREOF, Heron Ridge Homeowners Association, INC. by it's duly authorized President, and Secretary, has executed this declaration on this day and year hereinabove set forth

HERON RIDGE HOMEOWNERS ASSOCIATION, INC.

By Richard Crawshaw President
Sharon K. Schwartz Secretary

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

Before me, a Notary Public in and for said County and State, personally appeared Richard Crawshaw and Sharon Schwartz, President and Secretary of Heron Ridge Homeowners, INC., who acknowledged the execution of the above and foregoing instrument for and on behalf of said company, and who having been duly sworn, stated that any representations contained therein are true.

WITNESS my hand and Notarial Seal this 26th day of September 2003

My Commission Expires:

16th July, 2006

[Signature]
Notary Public

Printed Ruthella B. Bosterman

Resident of Marion County

This instrument was prepared by

Jerry L. Fox
1465 Raver Court
Greenwood, IN 46143
(317) 884-4933



Recorded Johnson County, Indiana
Sue Anne Hissalec, Recorder
Date 05/20/2008 Time 09:28:47 1 of 3 F
Inst # 2008-013375 GF
Fee Amt 15.00

[FOURTH]

Amendment to:

Instrument # 2008-013375

Recorded in Johnson County, Indiana

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

HERON RIDGE SUBDIVISION

In accordance with Article XVII, Section 1 of the Declaration of Covenants and Restrictions of Heron Ridge Subdivision and having obtained greater than 75% in the aggregate of the votes of all owners, the Board of Directors is adding Article X, Section 40 as follows:

Section 40 No home rentals. In the interest of enhancing and protecting the value, desirability, and attractiveness of the community as a whole and of each home situated thereon, no Heron Ridge residence may be rented, let, nor leased by any homeowner. Owners shall not receive in any manner any payment nor series of payments by a lessee to an owner in return for their use of the home.

)

)



IN WITNESS WHEREOF, Heron Ridge Homeowners Association, Inc., by its duly authorized President and Secretary, has executed this declaration on this day and year hereinafter set forth

HERON RIDGE HOMEOWNERS ASSOCIATION, INC.

By Richard Crawshaw
President

David Fischer
Secretary

STATE OF INDIANA)
)SS:
COUNTY OF JOHNSON)

Before me, a Notary Public in and for said County and State, personally appeared Richard Crawshaw and David Fischer, President and Secretary of Heron Ridge Homeowners Association, Inc., who acknowledged the execution of the above and foregoing instrument for and on behalf of said organization, and who having been duly sworn, stated that any representation contained therein is true.

WITNESS my hand and Notarial Seal this 20th day of May, 2005

My Commission Expires

Tanya M. Hawkins
Notary Public

04-04-2013

Printed Tanya M. Hawkins

This instrument was prepared by Richard Crawshaw
1410 Heron Ridge Blvd.
Greenwood, In. 46143
(317) 833-0353

TANYA M. HAWKINS
Notary Public, State of Indiana
Shelby County
My Commission Expires April 4, 2013



Doc ID: 003129970003 Type: MIS
Recorded: 05/24/2006 at 10:37:04 AM
Fee Amt: \$17.00 Page 1 of 3
Workflow# 441692
Johnson County-Recorded as Presented
Sue Anne Misiniec Recorder

Inst **2006-013028**

[FIFTH]

Amendment to:
Instrument #1999-003375
Recorded in Johnson County, Indiana

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

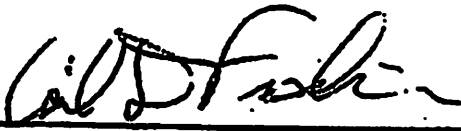
HERON RIDGE SUBDIVISION

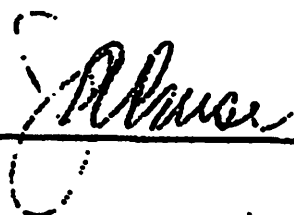
In accordance with Article XVII, Section 1 of the Declaration of Covenants and Restrictions of Heron Ridge Subdivision and having obtained greater than 75% in the aggregate of all votes of all owners, the Board of Directors is adding Article X Section 41 as follows:

Section 41 No Residents Will Be Under The Age of 18 Years. In the interests of enhancing and protecting the value, desirability, attractiveness of the community, as an adult community, as a whole and of each home situated thereon, no Heron Ridge resident under the age of 18 years will be allowed.

IN WITNESS WHEREOF, Heron Ridge Homeowners Association, Inc., by its duly authorized President and Secretary, has executed this declaration on this day and year hereinafter set forth

HERON RIDGE HOMEOWNERS ASSOCIATION, INC.

By 
President

By 
Secretary

STATE OF INDIANA)
) SS
COUNTY OF JOHNSON)

Before me, a Notary Public in and for said County and State, personally appeared Carl D. Fischer and Jack Cruse, President and Secretary, respectively, of Heron Ridge Homeowners Association, Inc., who acknowledged the execution of the above and foregoing instrument for and on behalf of said organization, and who, having been duly sworn, stated that any representation contained therein is true.

Witness my hand and Notarial Seal this 23 day of May, 2006.



Expires 31 July 08

Prepared by - Ni. Sam Stone



Doc ID: 003497880009 Type: MIS
Recorded: 08/01/2007 at 09:54:45 AM
Fee Amt: \$16.00 Page 1 of 8
Workflow# 482493
Johnson County-Recorded as Presented
Sus Anne Haines Recorder

Instr **2007-013785**

[SIXTH]

**AMENDMENT TO:
Instrument # 1999-003375
Recorded in Johnson County, Indiana**

DECLARATION OF COVENANTS AND RESTRICTIONS

OF

HERON RIDGE SUBDIVISION

In accordance with Article XVII, Section 1 of the Declaration of Covenants and Restrictions of Heron Ridge Subdivision and having obtained more than 75% in the aggregate of the votes of all Owners, the Board of Directors is changing Article X, Section 17 as follows: .

Section 17. Lighting. Except for seasonal holiday decorative lights, which may be displayed between Thanksgiving Day and January 10 only, all exterior lights must be approved in accordance with Article IX of this Declaration.

~~Wayne Jones~~
I AFFIRM, UNDER THE PENALTIES FOR PERJURY,
THAT I HAVE TAKEN RESPONSIBLE CARE TO REVIEW
EACH SOCIAL SECURITY NUMBER IN THIS
DOCUMENT, UNLESS REQUIRED BY LAW.

This instrument was prepared by:
Wayne Jones
3265 Williams Drive
Greenwood, IN 46143
(317) 855-2247

Resident of Johnson County

Printed Name: Sophie
Notary Public
Wayne Jones

My Commission Expires: 11-7-2013

Witness my hand and Notarial Seal this 1 day of June, 2007.

Having been duly sworn, stated that my representations contained therein are true,
above and foregoing instrument for and on behalf of said organzation, and who,
Heron Ridge Homeowners Association, Inc., who acknowledged the execution of the
Carl D. Fisher and Linda A. Doney, President and Secretary, respectively, of
before me, a Notary Public in and for said County and State, personally appeared

STATE OF INDIANA
COUNTY OF JOHNSON
SS:

By *Carl D. Fisher*
President
Linda A. Doney
Secretary

HERON RIDGE HOMEOWNERS ASSOCIATION, INC.

IN WITNESS WHEREOF, Heron Ridge Homeowners Association, Inc., by its
duly authorized President and Secretary, has executed this declaration on this day
and year hereinafter set forth.



2016-020495

RECORDED ON
09/12/2016 10:06:47 AM
JILL L JACKSON
JOHNSON COUNTY RECORDER

REC FEE: 151.00
PAGES: 71

Cross-Reference:

Heron Ridge (Plat), Instrument #1999-003823 (Plat Book D, Page 171 A-D)
Heron Ridge, Declaration of Covenants, Instrument #1999-003375

SEVENTH AMENDMENT

to the

DECLARATION OF COVENANTS AND RESTRICTIONS

of

HERON RIDGE SUBDIVISION

COMES NOW the Heron Ridge Homeowners Association, Inc., by its Board of Directors, on this 12th day of SEPTEMBER, 2016, and states as follows:

WITNESSETH THAT:

WHEREAS, the residential community in Johnson County, Indiana commonly known as Heron Ridge was established upon the recording of certain documents with the Office of the Recorder of Johnson County, Indiana; and

WHEREAS, the Plat for Heron Ridge was recorded with the Office of the Recorder of Johnson County, Indiana, on February 1, 1999, as **Instrument #1999-003823** (Plat Book D, Page 171 A-D); and

WHEREAS, the foregoing Plat contains covenants which run with the land located in the Declaration of Covenants and Restrictions of Heron Ridge Subdivision (“Declaration”), recorded in the Office of the Recorder of Johnson County, Indiana, on January 28, 1999, as **Instrument #1999-003375**; and any amendments thereto, which state that by taking a deed to any Lot as set forth on the Plat for the Heron Ridge development, each owner will become a mandatory member of the Heron Ridge Homeowners Association, Inc., an Indiana nonprofit corporation (“Association”); and

WHEREAS, the Association was incorporated pursuant to the above listed Declaration as a non-profit corporation pursuant to Articles of Incorporation (“Articles”) filed with, and approved by, the Indiana Secretary of State on January 22, 1999; and

WHEREAS, the Declaration, Article XVII, states “*Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes of all Owners.*”; and

WHEREAS, Indiana Code 23-17-10-8 states that any action that may be taken at a meeting of the members may be taken without a meeting if the corporation delivers a written ballot containing the required information as set forth in the statute to every member entitled to vote on the matter; and

WHEREAS, in lieu of a meeting, the Association delivered proper written ballots to all seventy-four (74) of its members, and the Association received sixty-five (65) votes, which constitutes more than seventy-five percent (75%) of the owners; and

WHEREAS, all sixty-five (65) owners voted “yes” on all of the proposed amendments, which means the proposed amendments were approved by more than the required seventy-five percent (75%) in the aggregate of the votes of all Owners as required by Article XVII of the Declaration; and

WHEREAS, the ballots and signatures of the voting Owners are attached to this Amendment as “Exhibit A”; and

WHEREFORE, in accordance Article XVII of the Declaration, the Owners in Heron Ridge now amend the Declaration as follows:

The Amendment to the Declaration recorded May 20, 2005, as Instrument #2005-013095, incorrectly stated it added “Section 40” when it should have stated it added “Section 41”. Therefore, that Amendment is corrected to read as follows:

“the Board of Directors is adding Article X, Section 41, as follows:”

The Amendment to the Declaration recorded May 24, 2006, as Instrument #2006-013028, incorrectly stated it added “Section 41” when it should have stated it added “Section 42”. Therefore, that Amendment is corrected to read as follows:

“the Board of Directors is adding Article X, Section 42, as follows:”

Article 1, Section 1(s), of the Declaration is amended to read as follows:

(s) “Lot Owner” means the record Owner, whether one or more Persons, of the fee simple title to any Lot (i.e. the name on the deed), and does not include or mean a mortgagee or any person(s) or entities which hold interest in any Lot or property in this Development merely as security for the performance of an obligation.

Article X, Section 41, of the Declaration is amended to read as follows:

Section 41. Owner-Occupancy Requirement. For the purpose of maintaining the congenial and residential character of Heron Ridge, and for the protection and maintenance of property values by encouraging the maintenance, improvement and updating of the Lots within the Heron Ridge community, no home in Heron Ridge may be leased, rented, leased to own, etc. Except as otherwise provided in this covenant, each home in Heron Ridge must be “Owner-Occupied” only by the titled Owner(s), the titled Owner’s spouse or significant other, the titled Owner’s immediate family members who are at least eighteen (18) years of age, the titled Owner’s live-in caretaker, and any temporary visitors and guests of the titled Owner, so long as the titled Owner(s) also lives in the home.

The term “Owner-Occupied” is not satisfied by the representatives, employees, agents or guests of a corporation, partnership, or other entity.

However, this “Owner-Occupancy” restriction is not intended to prevent residents whose primary residence is in Heron Ridge, but who are not the titled Owner of their home as the result of estate planning, such as placing their home in a trust, reserving a life estate, or Medicaid planning, from living in Heron Ridge. In this situation, the Owner will be considered to be in compliance with this covenant so long as the Owner also follows all of the remaining restrictions in this provision.

This Owner-Occupancy requirement takes effect on the date this covenant amendment is recorded with the Johnson County Recorder’s Office.

The Declaration is amended to read as follows:

All references to “lease or leased”, “rent or rented”, “tenant”, “renter”, “lessee”, and “licensee” in the Declaration, other than those in Section 41, are deleted.

All other provisions of the Declaration of Covenants and Restrictions of Heron Ridge Subdivision remain unchanged;

The foregoing amendment(s) will run with the land and will be binding upon all owners and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to these covenants.

[End of Amendments]

We certify that this Seventh Amendment to the Declaration of Covenants and Restrictions of Heron Ridge Subdivision was duly moved and passed by more than seventy-five percent (75%) of the Owners in accordance with Article XVII of the Declaration.

HERON RIDGE HOMEOWNERS ASSOCIATION, INC.

Thomas Trahan
President

9/12/16
Date

Thomas Trahan
Printed Name of Director

ATTEST:

James R. Martin
Secretary

9-12-2016
Date

James R. Martin
Printed Name of Director

STATE OF INDIANA)
)
COUNTY OF JOHNSON)



ROSEMARY ELISA JACKSON
Resident of Hancock County, IN
Commission Expires: Dec. 21, 2018

Before me a Notary Public in and for said County and State, personally appeared Thomas Traban and JAMES R. MARTIN, the President and Secretary, respectively, of Heron Ridge Homeowners Association, Inc., who acknowledged execution of the foregoing Seventh Amendment to the Declaration of Covenants and Restrictions of Heron Ridge Subdivision, and who, having been duly sworn, stated that the representations contained herein are true.

Witness my hand and Notarial Seal of this 12 day of September, 2016.

Rosemary Elisa Jackson
Notary of Public - Signature

Hancock Co
County of Residence

Rosemary Elisa Jackson
Printed

Dec. 21, 2018
Date Commission Expires

I hereby affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. -Scott A. Tanner

This document was prepared by and should be returned to:
Scott A. Tanner, TANNER LAW GROUP, 6125 S. East St., Suite A, Indianapolis, IN 46227

EXHIBIT A

BALLOTS

74 TOTAL UNITS
(75% in the aggregate of the votes of all owners required)

CHANGE TO AMENDMENT TO DECLARATION RECORDED ON MAY 20, 2005

65 "YES" VOTES
0 "NO" VOTES
(88% of vote--Amendment Passes)

CHANGE TO AMENDMENT TO DECLARATION RECORDED ON MAY 24, 2006

65 "YES" VOTES
0 "NO" VOTES
(88% of vote of all Owners--Amendment Passes)

AMENDMENT TO ARTICLE I, SECTION 1(s) OF THE DECLARATION

65 "YES" VOTES
0 "NO" VOTES
(88% of vote of all Owners--Amendment Passes)

AMENDMENT TO ARTICLE X, SECTION 41 OF THE DECLARATION

65 "YES" VOTES
0 "NO" VOTES
(88% of vote of all Owners--Amendment Passes)

REMOVE REFERENCES TO RENTING & LEASING FROM THE DECLARATION (Except
Section 41)

65 "YES" VOTES
0 "NO" VOTES
(88% of vote of all Owners--Amendment Passes)