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**DECLARATION OF COVENANTS AND RESTRICTIONS
OF
KENSINGTON GROVE "COMMUNITY"**

This Declaration of Covenants and Restrictions of Kensington Grove "Community" ("Declaration") is made this 11~~th~~ day of JUNE, 2002, by Kensington Grove, LLC (the "Declarant").

WITNESSETH:

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" or Kensington Grove Section 1), and

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community (involving a mix of affordable housing) with public streets, lakes, landscaped areas, open spaces, identification and directional signage, fences and other common areas for the benefit of such residential community, to be known as "Kensington Grove Subdivision"; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values 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 to certain rights, privileges, covenants, restrictions, easements according to the procedure set out in Article XV. 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 in said community, to create an agency to which shall be delegated and assigned the powers of supervising, maintaining and administering any common 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 "Kensington Grove 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 and any Additional Property which is hereafter made subject to this 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 therein.

RECITALS

The Recitals are incorporated herein as if set out in full.

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) "Additional Property" refers to the real estate, or any part thereof, described in Article XV of this Declaration and legally described in its entirety as Exhibit B attached hereto and made a part hereof less the Exhibit A Realty.
- (c) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2(b) of this Declaration;
- (d) "Association" shall mean and refer to Kensington Grove Homeowners Association, Inc., an Indiana 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;
- (e) "Articles" shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time;
- (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) "Bylaws" shall mean and refer to the Code of Bylaws of the Association, as the same may be amended from time to time;
- (h) "Committee" shall mean and refer to the "Kensington Grove 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;
- (i) "Common Areas" – reference is made to a Conceptual Plan for the Kensington Grove project attached hereto as Exhibit C and made a part hereof with the Exhibit A "Real Estate" referenced as Section 1 and with the "Additional Property" (Exhibit B), if the latter is added by Supplemental Declaration in its entirety (as distinguished from in past) having referenced as Section 2.

The Common Areas in Section 1 refer to what remains after platted Lots are removed from the Exhibit A description and further reduced by excluding dedicated rights of way for public streets, but does include the depicted "Lakes" and "Park Area". If Section 2 is made subject to this

Declaration, the same standard will apply as in Section 1, except that no Park Area is contemplated for Section 2.

The Common Areas include all General Common Areas and Limited Common Areas as hereafter defined.

(j) "Limited Common Area" refers specifically to the one Lake shown on Exhibit C surrounded by Lots 5-16 inclusive, and Lots 309 and 310 of The Estates for the exclusive use of the owners, guests and invitees of said owners, subject to Association Rules and Regulations and subject to access by the Declarant and the Association for their upkeep, maintenance and repair obligation. All other Common Areas shall be considered General Common Areas.

(k) "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, and all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses. The Common Expenses arise out of and concern, but are not limited to, the following:

Lakes. The Common Area of the Lakes which with access thereto being provided appropriate governmental agencies concerned with drainage. (See Article XIII Lake Covenants).

The Declarant and the Association, after the Applicable Date, reserve the right, but not the obligation, to install fountains and utility service thereto for one or more of the Lakes.

NEITHER THE DECLARANT OR THE ASSOCIATION MAKE ANY REPRESENTATION THAT ANY CERTAIN LEVEL OF WATER WILL BE MAINTAINED IN ANY LAKE.

Signage and Fencing. Identification signage at each of the entrance(s) to Kensington Grove from the major county arteries and accompanying landscaping, plus fencing at both the Stones Crossing Road and Morgantown Road entries, plus directional interior signage to identify the separate housing market areas of The Crossings, The Overlook and The Villages, which shall be installed and located within "Utility, Drainage and Landscape Easements" as defined in the plats of such market areas useable by the Declarant, the Association or their representatives. These designated parties reserve the right to install, without the obligation to install, utilities to service these areas with any user charges arising therefrom to be a Common Expense.

Park Area (Section 1). This area is unimproved with the Declarant, and after the Applicable Date, the Association, reserving the right, but not the obligation, to make improvements thereon for the benefit of the Kensington Grove Community. These designated parties reserve the right to install, without the obligation to install, utilities to service these areas with any user charges arising therefrom to be a Common Expense.

The Center of the Round-About (Section 1). The center of the round-about at the intersection of Coventry and Chancery as show on Exhibit C shall be landscaped to some extent with possible utility service the user utility expense of which will be a Common Expense. Access by the Declarant, and after the Applicable Date the Association shall be by reservation in the dedicated right of way or by an encroachment easement.

Utility Fees. All utility user fees to serve the Common Areas during Declarant's control prior to the Applicable Date and thereafter all installation and user fees authorized by the Association.

Fifty percent (50%) of the cost of counsel expenses to create this Declaration and Kensington Grove Homeowners Association, including, but not limited to, Articles of Incorporation, By-Laws, Secretary of State file fee and initial minutes.

(l) "Declarant"/"Developer" shall mean and refer to Kensington Grove, LLC, an Indiana limited liability company, and any successors and assigns of Kensington Grove, LLC 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;

(m) "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;

(n) "Lakes" shall mean and refer to the Lakes located on the Real Estate;

(o) "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 (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit), as designated by Declarant by its deed of the same to another Person. A Lot will not necessarily be the same as 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. For purposes of this Declaration, a "Lot" may be (i) any single numbered parcel of land identified as a Lot on such subdivision plat,

(ii) part of such a numbered parcel of land, (iii) such a numbered parcel of land combined with part or all of another such numbered parcel of land, or (iv) parts or all of two (2) or more of such numbered parcels of land combined. The determination of what portion of the Real Estate constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit). Notwithstanding the foregoing, if after the initial conveyance of a portion of the Real Estate by Declarant to another Person it is agreed between Declarant and such Person to enlarge or reduce or otherwise change the portion of the Real Estate so originally conveyed to such Person as a "Lot", then the determination of what portion of the Real Estate constitutes such "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, such "Lot" initially so conveyed by Declarant, as the same has been adjusted or changed at any time by

conveyances by and between Declarant and such Person. Any deed or other instrument of conveyance so adjusting or changing the description of a "Lot" shall state on its face that it is made for such purpose. Any part of a "Lot" reconveyed to Declarant shall, upon such reconveyance, lose its character as part of a "Lot" and may thereafter be conveyed by Declarant as part of another "Lot". The foregoing procedures may be used to correct errors in descriptions, to adjust boundary lines of "Lots" or for any other reason;

(p) "Member" means a member of the Association.

(q) "Applicable Date or Declarant Turnover Date" refers to the time at which the Declarant relinquishes control of the governance of the Association as detailed on Article IV.

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

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

(u) "Properties" shall mean and refer to the real property described in Exhibit "A" attached hereto, together with such "Additional Property" as is hereafter made subject to this Declaration by Supplemental Declaration;

(v) "The Real Estate" shall mean and refer to the parcel 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;

(w) "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;

(x) "Rules and Regulations" - rules and regulations relative to the use, occupancy, operation and enjoyment of the Real Estate and the Common Areas as authorized under Article V, Section 7(g).

(y) "Committee" shall refer to the Architectural Control Committee all as fully detailed in Article IX hereof.

(z) "Community or Project" refers to the Kensington Grove project as it is developed and as it continues to exist after the Applicable Date.

- (aa) The Villages – lots 1-43, and 62-98.
- (bb) The Crossings – lots 44-61, 99-200, and 260-298.
- (cc) The Estates – lots 299-310.
- (dd) The Overlook – lots 201-259.

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

Section 1. Declaration. Declarant hereby expressly declares that the Properties shall be held, transferred and occupied subject to the Restrictions as Covenants running with the Real Estate. The Owners of any Lot subject to these Restrictions, and all other Persons, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, 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. Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common Areas (except for the Limited Common Area, 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 of Declarant as to Common Areas

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

- (a) a storm drainage system for the Real Estate (Section 1), which may include lakes, inlet pipes, open ditches, swales, pipes and other structures and drainage courses.

(b) the installation, in common areas or landscape easements of landscaping and the fencing referenced for the Stones Crossing, Morgantown, and Travis road entrances and other screening materials;

(c) the installation of entrance walls in common areas or landscape easements and directional identification signage for The Overlook, the Villages and The Crossings within the Real Estate (Section 1);

(d) the installation, within the street rights-of-way areas or in landscape easement of landscaping for the center area of the turnaround at the intersection of Coventry and Chancery as shown on Exhibit C.

(e) the installation of such utilities as Declarant, in its discretion, chooses to install to serve (a), (b), (c) or (d) above.

Upon substantial completion of portions of the Common Areas described in this Section 1, or earlier if the Association and the Declarant are willing to convey and accept same subject to agreed conditions. When Owner Board Members (excluding Declarant) are at least equal to Declarant Board Members (non-owners, including Declarant), but in no event will all the Common Areas be conveyed lien free and completely constructed later than the Applicable Date. 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 (whether owned in fee or by easements) shall then be the property of the Association, whether or not the same may be located entirely or partially on any one or more of the Lots. As to any of such items of and constituting the Common Areas located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein as described in Article II, Section 2. of this Declaration.

Section 2. 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 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. As to any of such Common Areas so designated and conveyed pursuant to the foregoing provisions of this Section 3 which are located entirely, or partially on any one or more of the Lots, the

Owners of such Lots shall have only non-exclusive easement rights therein or thereto, as described in Article II, Section 2, of this Declaration.

ARTICLE IV
Association; Membership; Voting; Functions

Section 1. Membership in Association. Declarant and each Owner of a Lot 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 membership will be transferred to the new Owner of his Lot; 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.

(b) **Class B.** Class B members shall be Declarant and all successors and assigns of Declarant designated 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 the Owner on the recorded subdivision plat of the Real Estate and ten (10) votes per "denominated Lot" on the property adjacent to the Properties (Additional Property) which while not a platted Lot is denominated as a Lot on Exhibit C (conceptual plan) as defined in this Declaration, 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) THIRTY (30) DAYS AFTER THE DATE UPON WHICH THE WRITTEN RESIGNATION OF THE CLASS B MEMBERS IS DELIVERED TO THE RESIDENT AGENT OF THE ASSOCIATION, OR

(ii) THE DATE WHEN NINETY PERCENT (90%) OF LOTS AND THE DENOMINATED LOTS IN THE "ADDITIONAL PROPERTY: HAVE BEEN CONVEYED BY DEED FROM DECLARANT TO BUILDERS OR OTHER LOT PURCHASERS.

(iii) FIFTEEN (15) YEARS AFTER THE DATE OF RECORDATION OF THIS DECLARATION.

The Date applicable to the above is hereinafter 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 owned and for each denominated Lot identified as a Lot on Exhibit C (conceptual plan).

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, 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 persons designated or to be designated, in the Articles, to-wit: Ronald E. Wampler and Michael J. Duke (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 Declarant, who shall thereafter be deemed a member of the Initial Board. Each 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 Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as 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 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 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 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 Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4. Term of Office, Vacancy and Number of Directors After the Applicable Date.

(a) **Term.** 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.

(b) **Number of Directors After Applicable Date.** The number of Directors to serve on the Board after the Applicable Date shall be seven (7) with representation thereon assured to each of the separately named areas of Kensington Grove as follows:

The Overlook – 2 Directors
 The Villages – 2 Directors
 The Crossings – 2 Directors
 The Estates (Lots 299-308, 309, and 310) per Exhibit C – 1 Director

The voting for Directors from each of these separately named areas will solely be determined by the Owners from within the separately named area.

(c) **Vacancies.** 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 (unless the same are otherwise the responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may employ a Managing Agent upon such terms as the Board shall find, in its 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 Lots, Dwelling Units and Common Areas (to the extent the same are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies);
- (c) landscaping, painting, decorating, furnishing, and maintenance and upkeep of, the Common Areas;
- (d) assessment and collection from the Owners of the Owners' respective shares of the Common Expenses;
- (e) 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;
- (f) preparing and delivering annually to the Owners a full 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;
- (g) 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 by reasonable pre-arrangement;
- (h) 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;
- (i) 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
- (j) 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 Lots, 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 coextensive 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.
- (i) to borrow funds to perform its duties for the benefit of the Association and Owners and use the assessments as collateral, if collateral is required, to secure such financing.

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 \$10,000.00 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 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, bad faith or gross negligence. 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 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 gross negligence or misconduct. 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 negligence or 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 negligence or 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 paid by the Association and 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, unless otherwise determined by the Association.

ARTICLE VII Maintenance, Repair and Replacement

Section 1. By the Owner. Each Owner shall be responsible for, if the need therefor arises, all maintenance, repairs, decoration and replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except for such portions thereof as may, in accordance with the terms of this Declaration, be designated as a part of the Common Areas for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling or any part of the Common Areas or in the judgment of the Board negatively impact on the preservation and enhancement of values in the Kensington Grove "Community" project. Such maintenance and repairs include but are not limited 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.

Section 2. By the Association Maintenance, repairs, replacements and upkeep of the Common Areas shall (except to the extent provided herein as the obligation of Owners) be furnished

by the Association, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses as detailed in Article I(k).

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 items deemed Common Areas for purposes of maintenance), if, 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 (or items deemed as such for purposes of maintenance), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and 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 or to the Common Areas and items deemed as Common Areas for purposes of maintenance, including, but not limited to, access to any easements reserved, granted or created by any Kensington Grove subdivision plat of any portion of the Real Estate for such purposes.

ARTICLE VIII Lake Covenants

Section 1. Ownership of Lakes. Each Lake area as shown on Exhibit C as platted are general common areas except for the Lake south of Lots 309 and 310 in The Estates which is Limited Common Area ("Limited Lake").

Section 2. Rights To Use Lakes. Subject to the easement rights with respect to the Lakes described in the recorded plats applicable to the Real Estate, all Owners together with guests in their presence, shall have the rights to use and enjoyment of such Lake (except the Limited Lake) provided they access such Lakes only via common areas and not through Lots owned by others and provided further that they not interfere with the drainage system of the subdivision of which the Lakes are a part and comply with limitations on the use thereof and Rules and Regulations adopted relative thereto. The same standard will apply to the "Limited Lake" except the right of use and enjoyment shall be limited only to the Lots abutting said "Limited Lake".

Section 3. Limitations on Use of Lakes (including "Limited Lake"). No person shall do or permit to be done any action or activity which could result in pollution of the Lakes, 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 Lakes are and will be an integral part of the storm water drainage system serving the Real Estate and are 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 any of the Lakes which in any way interferes with their proper functioning as part of such storm water drainage system.

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

No boating, swimming, diving, skiing or ice skating shall be permitted in or on said Lakes except as permitted by the Board of Directors under written and promulgated Rules and Regulations.

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 lakes, 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.

Fishing from the shores of such lakes shall be permitted subject to obedience and compliance with all applicable fishing and game laws, ordinances, Rules and Regulations.

Section 5. Costs of Maintenance. Estimated costs of maintenance and repair of the Lake property related to the storm water drainage system shall be included in the Common Expenses subject to general assessment for all Lots in the Kensington Grove Project.

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 "Kensington Grove Architectural Control Committee" ("Committee") which shall have

exclusive jurisdiction over all construction on any portion of the Properties. UNTIL 100% OF THE PROPERTIES 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 Properties, 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 the 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 Properties and such Owners and builders 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 fourteen (14) calendar 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) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the terms of any financing, or the initiation of work without the required approval of the Committee shall not be considered hardships warranting a variance.

Section 7. Compliance with Guidelines. Any contractor, subcontractor, agent, employee, or other invitee of an 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 Properties 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 does 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

The following covenants and restrictions contained in Exhibit D attached and made a part hereof concerning the use and enjoyment of the Lots, Dwelling Units, Common Areas and Common Expense Areas (Article I(k)) are in addition to any other covenants or restrictions contained herein and in the Final Plat(s) of Kensington Grove. All such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and are enforceable by an Owner, or by the Association. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof including reasonable attorney fees, but there shall be no right of reversion or forfeiture resulting from such violation.

Notwithstanding anything to the contrary contained herein or in the Articles or Bylaws, including, but not limited to, any covenants and restrictions set forth herein or otherwise, Declarant shall have the right to use and maintain any Lots and Dwelling Units owned by Declarant in and on the Real Estate and the Additional Property (other than individual Dwelling Units and Lots owned by persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction of Dwelling Units and the sale of Lots and Dwelling Units or for the conducting of any business or activity attendant thereto, including, but not limited to model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as it desires. Declarant shall have the right to remove the same from the Real Estate and Additional Property at any time.

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 (i.e. majority of a quorum as defined in the By-Laws of namely 50% plus the total Owners vote); 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 (10 %) 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, 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) above or (b) shall be made by a cash payment by, or refund to, the Owner on 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.

(c) Notwithstanding anything to the contrary above concerning Declarant not being obligated for Regular Assessment, the Declarant after the Applicable Date will contribute twenty-five percent (25%) of the Regular Assessment for unimproved Lots in Declarant's name, but only if the Applicable Date is not earlier than when Declarant has conveyed ninety percent (90%) of the Lots on Exhibit C to others or fifteen (15) years after the date this Declaration has been recorded, whichever first occurs.

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, including Lots in The Estates, but not on Lots owned by Declarant, prorated in equal shares (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. **THE DECLARANT SHALL ONLY BE RESPONSIBLE FOR SPECIAL ASSESSMENTS AFTER THE "APPLICABLE DATE" OCCASIONED BY EXTRAORDINARY REPAIRS TO ORIGINALLY INSTALLED INFRASTRUCTURE, BUT SHALL NOT BE RESPONSIBLE FOR NEW INFRASTRUCTURE OR AMENITIES DESIRED BY OTHER OWNERS UNLESS DECLARANT SPECIFICALLY AGREES OTHERWISE IN WRITING.**

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 mechanic's lien 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. 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 Bank One 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).

(c) In addition to the remedies above stated for failure to pay assessments, the Association may disqualify a delinquent Owner from his right to vote and to hold office or committee membership in the Association while Assessment are delinquent in addition to charging a late fee of \$25.00 per day of delinquency to among other things, cover the administrative expense of addressing the delinquency.

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.

Further, until the Applicable Date and notwithstanding the foregoing or anything else contained herein, no Regular Assessments, Special Assessments or other charges shall be owed or payable by Declarant with respect to any Lot or other portion of the Real Estate owned by Declarant while the same is owned by Declarant, nor shall any such Assessments or Charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant,

except as specifically detailed in the last paragraph of subsection 3 herein. Assessments against a Lot shall commence to accrue from the date each Lot is conveyed by Declarant 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 Declarant shall be paid by each purchaser upon such conveyance.

Section 7. Initial Working Capital and Start-Up Fund. Upon the closing of the initial conveyance of each Lot by 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 nonrefundable 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, may 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 or 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 written 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
Insurance

Preface

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS ARTICLE (INSURANCE), THE ASSOCIATION WILL SEEK TO OBTAIN THE COVERAGES INDICATED SUBJECT HOWEVER TO THE LIMITATION OF WHAT'S AVAILABLE FROM INSURANCE CARRIERS FOR KENSINGTON GROVE COUPLED WITH CONSIDERATION AS TO EXCEPTIONS AND EXCLUSIONS OF COVERAGE, AND DEDUCTIBLES TO MAINTAIN CONTROL OF THIS ITEM OF COMMON EXPENSE.

THE ASSOCIATION WELCOMES THE OWNERS' INPUT REGARDING THE BEST COVERAGE FOR THE BEST PRICE AND WILL SUPPLY OWNERS WITH A SUMMARY FROM THE ASSOCIATION'S INSURANCE PROFESSIONAL WHICH WE URGE OWNERS TO SHARE AND CHALLENGE THEIR OWN INSURANCE PROFESSIONAL FOR RECOMMENDATIONS AS TO THEIR REQUIRED INSURANCE AND ANY ADVISABLE ADDITIONAL COVERAGE (GAP OR OTHERWISE) FOR DIRECT PURCHASE BY OWNERS.

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, if any, which, in whole or in part, comprise the Common Areas. 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, Officers, any committee or organ of the Association or Board, any Managing Agent appointed or employed by the Association, the Declarant and 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, his Lot, his Dwelling Unit, the contents 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 XIV Casualty and Restoration

In the event of damage to or destruction of 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 of the Common Areas, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the 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 Owners in equal shares. Any such amounts assessed against the 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 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 of the 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 Common Areas were originally constructed.

ARTICLE XV
Annexation

Declarant hereby reserves the right, from time to time and at any time, to annex any portion of "Additional Property" into The Kensington Grove Community. As of the date on which Declarant annexes any portion of this real estate into the community (the "Annexed Real Estate"), the Annexed Real Estate shall be deemed to be (for all purposes) included within Kensington Grove Community; all references in these covenants and restrictions or in the Declaration to the "subdivision" or to the "Kensington Grove Community" 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 Declarant annexes any portion of the "Additional Property" into the subdivision, the owners of the Annexed Real Estate shall be deemed to be (for all purposes) owners of lots within the Kensington Grove Community; all references in these covenants and restrictions or in 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. THE ABOVE SHALL BE ACCOMPLISHED BY FILING OF A RECORDED PLAT LABELED "KENSINGTON GROVE" WITH THE JOHNSON COUNTY RECORDER'S OFFICE WHICH MAKES REFERENCE TO THIS DECLARATION AND LEGALLY DESCRIBES THE PORTION OF THE ADDITIONAL PROPERTY BEING SUBJECTED TO THE TERMS, OBLIGATIONS, AND CONDITIONS OF THIS DECLARATION. NO ANNEXATION OF ADDITIONAL PROPERTY MAY BE MADE AFTER THE EXPIRATION OF FIFTEEN (15) YEARS FROM THE DATE OF RECORDING THIS DECLARATION. CONSEQUENTLY, ANY PORTION OF THE ADDITIONAL PROPERTY NOT SO PLATTED WILL NOT BE SUBJECT TO THIS DECLARATION AND WILL NOT BE PART OF THE KENSINGTON GROVE COMMUNITY.

ARTICLE XVI
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 XIII of this Declaration with respect to casualty insurance to be maintained by the Association, or (3) the provisions of Article XIV 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 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, 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 XVII
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 XVIII
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 XIX
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 fifteen (15) years a majority of the then owners of the lots in this subdivision 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.

The Association may as respects an Owner who violates these restrictions, after written notice to the Owner detailing the nature of the violation with a time period established by the Association to cure or conform, disqualify the voting rights and right to hold office while the violation continues and may further in the Board's sole discretion, impose a fine, in whole or in part, with each day after the cure period being a separate violation at a chargeable rate of up to one hundred dollars (\$100.00) per violation per day. This fine, if not paid when required, will be processed in the same manner as assessments.

ARTICLE XX

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 Kensington Grove Project, or for any defects in the construction thereof.

ARTICLE XXI

Declarant's Reservation of Rights

In addition to rights reserved by the Declarant in this Declaration, the Declarant reserves the right to participate with the Builders Association of Greater Indianapolis (BAGI), its Builder Members who agree in writing, to comply with the participation rules of the (BAGI) for a Home-A-Rama (H-A-R) in Kensington Grove. The H-A-R, which is open to the public for a fee, will be held within the "Community" in the area generally designated by asterisk on Exhibit C in the estimated months of August and September, 2003. The Declarant reserves the right to conduct H-A-Rs after 2003 in the "Community" in the area designated as Future Section on Exhibit C. All lot owners within the "Community" shall also conform to the rules of the BAGI as they relate to construction occurring on non-H-A-R lots during the H-A-R shows in the "Community".

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.

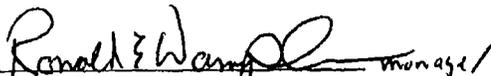
Section 3. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the Bylaws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the Bylaws 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, Kensington Grove, LLC, by its duly authorized Manager, Declarant herein, has executed this Declaration on the day and year first hereinabove set forth.

Kensington Grove, LLC

By:  *manager*
Ronald E. Wampler, Manager

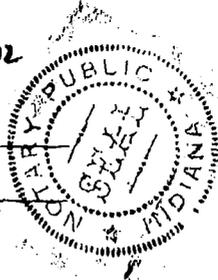
STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

Before me, a Notary Public in and for said County and State, personally appeared Ronald E. Wampler, the Manager of Kensington Grove, 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 11th day of JUNE, 2002

My Commission Expires:
5.4.07

Rebecca A. Landis
Notary Public
Printed REBECCA A. LANDIS
Resident of JOHNSON County



This instrument was prepared by: Raymond Good
LOCKE REYNOLDS LLP
201 North Illinois Street, Suite 1000
P.O. Box 44961
Indianapolis, IN 46244-0961
(317) 237-3800

EXHIBIT A

KENSINGTON GROVE - SECTION ONE LEGAL DESCRIPTION

A part of the Northeast Quarter and the Northwest Quarter of Section 16, Township 13 North, Range 3 East of the Second Principal Meridian, Johnson County, Indiana, being more particularly described as follows:

BEGINNING at the Northwest corner of said Northeast Quarter Section, said corner being marked by a Railroad Spike found in place; thence North 87 degrees 51 minutes 28 seconds East (Basis of Bearings is State Plane Coordinates) along the North line of said Northeast Quarter Section 65.02 feet to a Mag Nail Set at the Northwest corner of the land of Jack G. & Diana M. Satkamp (Inst. #99-007896, Office of the Johnson County Recorder); thence South 00 degrees 01 minutes 45 seconds East parallel with the West line of said Northeast Quarter Section 711.44 feet to a Capped Rebar set at the Southwest corner of said Satkamp; thence North 87 degrees 51 Minutes 28 Seconds East parallel with the North line of said Northeast Quarter Section 1270.05 feet to a Capped Rebar Set at the Southeast corner of the land of Bernard G. & Mildred M. Veerkamp (Book #240, Page #567, Office of the Johnson County Recorder), said corner also being on the West line of the Northeast Quarter of said Northeast Quarter Section, said corner also being on the West line of Feldhake & Isbell's Centerbrook Minor Plat (Plat Book "C", Page #572, Office of the Johnson County Recorder); thence the next two (2) courses being along the West and South lines of said Northeast Quarter Section and said Centerbrook Minor Plat; (1) South 00 degrees 09 Minutes 46 Seconds East 621.95 feet to a Capped Rebar Set at the Southwest corner of said Northeast Quarter Section and said Centerbrook Minor Plat; thence North 87 degrees 59 minutes 51 seconds East 1336.45 feet to a Mag Nail Set at the Southeast corner of said Northeast Quarter Section; thence South 00 degrees 17 Minutes 46 Seconds East along the East line of the Southeast Quarter of said Northeast Quarter Section 888.12 feet; thence South 89 degrees 42 minutes 14 seconds West 533.65 feet; thence North 14 degrees 05 minutes 37 seconds East 85.12 feet; thence North 14 degrees 25 minutes 10 seconds West 128.97 feet; thence South 89 degrees 50 minutes 14 seconds West 263.38 feet; thence North 00 degrees 09 minutes 46 seconds West 35.65 feet; thence South 89 degrees 50 minutes 14 seconds West 160.00 feet; thence North 00 degrees 09 minutes 46 seconds West 15.00 feet; thence South 89 degrees 50 minutes 14 seconds West 208.79 feet to a point on a non-tangent curve to the right, the radius point of which bears South 84 degrees 12 minutes 53 seconds East 225.00 feet; thence northeasterly along said curve 37.91 feet to a point which bears North 74 degrees 33 minutes 39 seconds West from said radius point; thence South 89 degrees 50 minutes 14 seconds West 168.29 feet; thence South 00 degrees 09 minutes 46 seconds East 35.78 feet; thence South 89 degrees 50 minutes 14 seconds West 160.00 feet; thence North 77 degrees 30 minutes 07 seconds West 51.25 feet; thence South 89 degrees 50 minutes 14 seconds West 341.54 feet; thence North 79 degrees 44 minutes 02 seconds West 64.67 feet; thence North 70 degrees 05 minutes 09 seconds West 87.42; thence North 67 degrees 29 minutes 48 seconds West 206.75 feet; thence North 62 degrees 09 minutes 09 seconds West 103.70 feet; thence North 47 degrees 42 minutes 17 seconds West 312.90 feet; thence South 48 degrees 31 minutes 24 seconds West 37.57 feet; thence North 41 degrees 28 minutes 36 seconds West 167.57 feet; thence South 48 degrees 31 minutes 24 seconds West 5.66 feet; thence North 41 degrees 28 minutes 36 seconds West 220.00 feet; thence North 48 degrees 31 minutes 24 seconds East 38.23 feet; thence North 41 degrees 28 minutes 36 seconds West 330.00 feet; thence South 48 degrees 31 minutes 24 seconds West 495.54 feet; thence South 56 degrees 27 minutes 04 seconds West 75.72 feet; thence South 74 degrees 56 minutes 53 seconds West 167.50 feet; thence North 70 degrees 41 minutes 14 seconds West 140.68 feet; thence North 89 degrees 54 minutes 05 seconds West 252.96 feet to the West line of the East Half of said Northwest Quarter Section; thence North 00 degrees 05 minutes 55 seconds East along said West line 1276.91 feet to a Mag Nail Set at the Northwest corner of said East Half Section; thence North 88 degrees 25 minutes 30 seconds East along the North line of said East Half Section 1332.73 feet to the **POINT OF BEGINNING**, containing 92.75 acres, more or less.

SUBJECT TO all easements, right-of-ways, and restrictions.

EXHIBIT B

KENSINGTON GROVE – ADDITIONAL PROPERTY LEGAL DESCRIPTION

A part of the Northeast Quarter and the Northwest Quarter of Section 16, Township 13 North, Range 3 East of the Second Principal Meridian, Johnson County, Indiana, being more particularly described as follows:

COMMENCING at the Northwest corner of said Northeast Quarter Section, said corner being marked by a Railroad Spike found in place; thence the next six (6) courses along the Northerly and Easterly lines of Kensington Grove – Section One; (1) North 87 degrees 51 minutes 28 seconds East (Basis of Bearings is State Plane Coordinates) along the North line of said Northeast Quarter Section 65.02 feet to a Mag Nail Set at the Northwest corner of the land of Jack G. & Diana M. Satkamp (Inst. #99-007896, Office of the Johnson County Recorder); (2) South 00 degrees 01 minutes 45 seconds East parallel with the West line of said Northeast Quarter Section 711.44 feet to a Capped Rebar set at the Southwest corner of said Satkamp; (3) North 87 degrees 51 minutes 28 seconds East parallel with the North line of said Northeast Quarter Section 1270.09 feet to a Capped Rebar Set at the Southeast corner of the land of Bernard G. & Mildred M. Veerkamp (Book #240, Page #567, Office of the Johnson County Recorder), said corner also being on the West line of the Northeast Quarter of said Northeast Quarter Section, said corner also being on the West line of Feldhake & Isbell's Centerbrook Minor Plat (Plat Book "C", Page #572, Office of the Johnson County Recorder); (4) South 00 degrees 09 minutes 46 seconds East along the West line of said Northeast Quarter Section and said Centerbrook Minor Plat 621.95 feet to a Capped Rebar Set at the Southwest corner thereof; (5) North 87 degrees 59 minutes 51 seconds East along the South line of said Northeast Quarter Section and said Centerbrook Minor Plat 1336.45 feet to a Mag Nail Set at the Southeast corner thereof; (6) South 00 degrees 17 Minutes 46 Seconds East along the East line of the Southeast Quarter of said Northeast Quarter Section 888.12 feet to the POINT OF BEGINNING of the herein described parcel, said point also being the Southeast corner of Kensington Grove – Section One; thence continuing South 00 degrees 17 minutes 46 seconds East along said East line 448.37 feet to a Mag Nail found at the Southeast Corner of said Southeast Quarter; thence South 88 degrees 08 minutes 13 seconds West along the South line of the aforesaid Northeast Quarter 1686.96 feet to a Mag Nail Set at the Southeast corner of the land of Debra L. Clark (Inst. #99-024720, Office of the Johnson County Recorder); thence the next three (3) courses being along the East, North, and West lines of said Clark; (1) North 00 degrees 11 minutes 17 seconds West 400.69 feet to a Capped Rebar Set; (2) South 88 degrees 08 minutes 13 seconds West parallel to the South line of said Northeast Quarter Section 163.07 feet to a Capped Rebar Set; (3) South 00 degrees 11 minutes 17 seconds East 206.69 feet to a Capped Rebar Set at the Northeast corner of the land of Kenny J. Weber (Inst. #98-008223, Office of the Johnson County Recorder); thence the next two (2) courses being along the North and West lines of said Weber; (1) South 88 degrees 08 minutes 13 seconds West parallel with the South line of said Northeast Quarter Section 130.00 feet to a Capped Rebar Set; (2) South 00 degrees 11 minutes 17 seconds East 194.00 feet to a Mag Nail Set on the South line of said Northeast Quarter Section; thence South 88 degrees 08 minutes 13 seconds West along said South line 698.89 feet to a PK Nail Found at the Southeast corner of the aforementioned Northwest Quarter Section; thence South 88 degrees 15 minutes 43 seconds West along the South line of said Northwest Quarter Section 1338.78 feet to a Mag Nail Set at the Southwest corner of the East Half of said Northwest Quarter Section; thence North 00 degrees 05 minutes 55 seconds East along the West line of said East Half Section 1387.41 feet to the Southwesterly corner of Kensington Grove – Section One; thence the next thirty (30) courses along the Southerly line of said Kensington Grove – Section One; (1) South 89 degrees 54 minutes 05 seconds East 252.96 feet; (2) South 70 degrees 41 minutes 14 seconds East 140.68 feet; (3) North 74 degrees 56 minutes 53 seconds East 167.50 feet; (4) North 56 degrees 27 minutes 04 seconds East 75.72 feet; (5) North 48 degrees 31 minutes 24 seconds East 495.54 feet; (6) South 41 degrees 28 minutes 36 seconds East 330.00 feet; (7) South 48 degrees 31 minutes 24 seconds West 38.23 feet; (8) South 41 degrees 28 minutes 36 seconds East 220.00 feet; (9) North 48 degrees 31 minutes 24 seconds East 5.66 feet; (10) South 41 degrees 28 minutes 36 seconds East 167.57 feet; (11) North 48 degrees 31 minutes 24 seconds East 37.57 feet; (12) South 47 degrees 42 minutes 17 seconds East 312.90 feet; (13) South 62 degrees 09 minutes 09 seconds East 103.70 feet; (14) South 67 degrees 29 minutes 48 seconds East 206.75 feet; (15) South 70 degrees 05 minutes 09 seconds East 87.42 feet; (16) South 79 degrees 44 minutes 02 seconds East 64.67 feet; (17) North 89 degrees 50 minutes 14 seconds East 341.54 feet; (18) South 77 degrees 30 minutes 07 seconds East 51.25 feet; (19) North 89 degrees 50 minutes 14 seconds East 160.00 feet; (20) North 00 degrees 09 minutes 46 seconds West 35.78 feet; (21) North 89 degrees 50 minutes 14 seconds East 168.29 feet to a point of non-tangency on a curve to left, the radius point of which bears South 74 degrees 33 minutes 39 seconds East 225.00 feet; (22) southwesterly along said curve 37.91 feet to a point which bears North 84 degrees 12 minutes 53 seconds West from said radius point; (23) North 89 degrees 50 minutes 14 seconds East 208.79 feet; (24) South 00 degrees 09 minutes 46 seconds East 15.00 feet; (25) North 89 degrees 50 minutes 14 seconds East 160.00 feet; (26) South 00 degrees 09 minutes 46 seconds East 35.65 feet; (27) North 89 degrees 50 minutes 14 seconds East 263.38 feet; (28) South 14 degrees 25 minutes 10 seconds East 128.97 feet; (29) South 14 degrees 05 minutes 37 seconds West 85.12 feet; (30) North 89 degrees 42 minutes 14 seconds East 533.65 feet to the POINT OF BEGINNING, containing 88.72 acres, more or less.

SUBJECT TO all easements, right-of-ways, and restrictions.

February, 2002

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Kensington Grove Covenants and Restrictions

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 home and except as may be permitted by the Committee. No window air conditioning units 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 Properties, except that dogs, cats or other usual and common household pets not to exceed a total of three (3) may be permitted on a Lot unless approved by the HOA/Declarant. 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 Properties shall be removed from the Properties 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.

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 Properties, including any Lot, without the prior written consent of the Board or its designee. Notwithstanding the foregoing, the 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 Properties and satellite dishes no greater in size than 18" in diameter are permitted on the Properties 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 Properties except as approved by the Architectural Review Committee. 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 Unit 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 Unit; (b) the business activity conforms to all zoning requirements for the Properties, (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties, as may be determined in the sole discretion of the Board.

Section 6. Clothesline, Garbage Cans, Tanks, Etc. All clothes, sheets, blankets, rugs, laundry clotheslines, garbage cans, mechanical equipment (except a/c and heat pump units), 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. Outside clotheslines will not be permitted. Fuel storage tanks will not be allowed. All rubbish, trash, and garbage shall be stored in appropriate containers approved by the Committee hereof and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon. No Owner shall burn or permit burning out-of-doors of garbage or other refuse.

Section 7. 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, or remove

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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, should have the right to enter upon said Lot and repair, mow, 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 8. Diligence in Construction. Every building whose construction on any Lot is begun shall be completed within the following time periods:

The Villages, The Estates, and The Crossings (excluding lots 261-278, 289-296)	300 days
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The Overlook and lots 261-278, 289-296 in The Crossings	400 days
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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 9. 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 10. Drilling. No oil or water drillings, oil development operations, oil refining, quarries or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted on any Lot.

Section 11. 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 12. 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. The preferred style of approved fence will be of a wrought-iron style. Chain-link fences will not be permitted.

Section 13. Firearms. The discharge of firearms within the Properties is prohibited. The term "Firearms" includes bows and arrows, slingshots "B-B" guns, pellet guns, paint-ball 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.

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Section 14. 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 15. 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 16. 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 17. Landscape Easement. 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 Declarant 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 18. Landscaping. No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas, except with express permission from the Board. Each Lot Owner shall provide reasonable landscaping on his Lot including, at a minimum, suitable foundation landscaping. 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. Trees provided by Declarant, if any, will be protected by Owner during construction and replaced within 30 days if damaged or if a tree dies on Owner Lot.

Section 19. Lighting. Except for seasonal Christmas decorative lights, which may be displayed between November 22 and January 10 only, all exterior lights, including but not limited to security and landscape, must be approved in accordance with Article IX of this Declaration.

Section 20. 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 foregoing, 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 Properties. No waste shall be committed in any Dwelling or on any Lot. Each Owner shall:

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- (i) Mow the Lot at such times as may be reasonably required in order to keep the grass no longer than five inches and prevent the unsightly growth of vegetation and noxious weeds;
- (ii) Remove all debris or rubbish;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Real Estate;
- (iv) Cut down and remove dead trees;
- (v) Where applicable, prevent debris and foreign material from entering drainage areas; and
- (vi) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

Section 21. Minimum Building Size. In Kensington Grove Subdivision the following minimum building square footages shall apply; unless approved by the Committee, after giving due consideration to zoning commitments of record:

<u>Community</u>	<u>Ranch</u>	<u>Multi-story</u>
The Villages (lots 1-43, 62-98)	1600	1000 main level, 2000 aggregate
The Estates (lots 299-310)	1800	1400 main level, 2400 aggregate
The Crossings (lots 44-61, 99-200, 260, 279-288, 297, 298)	1800	1400 main level, 2400 aggregate
The Crossings (lots 261-278, 289-296)	2400	1700 main level, 3000 aggregate
The Overlook (lots 201-259)	2600	1800 main level, 3200 aggregate

Section 22. Model Homes. No Owner of any Lot shall build or permit the building upon his Lot or any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Declarant.

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 or a builder approved by the Declarant with respect to its development and sale of the Properties or its use of any Lots which such entity owns within the Properties.

Section 23. 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.

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Section 24. 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 25. 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.

Section 26. 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 27. 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 denominated as being bigger than three-quarter of a ton truck, 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 Properties 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 Properties 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 2-car or more than a 3-car attached garage, unless otherwise approved by the Committee. All driveways and vehicle parking areas shall be hard surfaced with either concrete, or an acceptable alternate approved by the Committee and shall be so surfaced from their point of connection with the abutting street to their point of connection with the garage apron. No gravel or stone driveways will be permitted. No asphalt driveways will be allowed except for those lots in The Estates.

Section 28. Playground. Any Playground or other play areas or equipment furnished by the Association or erected within the Properties 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. No playground equipment (including, but not limited to, trampolines), tree houses, or similar structures shall be erected on any Lot without prior approval pursuant to Article IX hereof: provided, however, children's play

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equipment such as sandboxes, swings and slides, shall not require approval by the Committee provided such equipment is not more than six (6) feet high, maintained by the lot owner in good repair (including painting) and every reasonable effort has been made by the lot owner to screen or shield such equipment from view of adjacent lot owners. Equipment higher than eight (8) feet shall require approval of the design, location, color, material and use by the Committee.

Section 29. Private Water Systems. Private water systems will not be allowed.

Section 30. 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 31. Quiet Enjoyment. No portion of the Properties 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 Properties 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 Properties. 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 Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties. Also, excessive grass clippings from the mowing of lawns or other lawn/tree rubbish will not be allowed to be left on any street within the development.

Section 32. Residential Use. The Properties 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 Properties at any time owned by the Association which constitutes a part of the Common Areas and upon which no Dwelling Unit is located.

Section 33. Sales Office. To the extent deemed necessary or desirable by Developer, Developer 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 in the subdivision until 180 days following the sale, closing and deed transfer to a lot owner other than Developer of the last lot in the subdivision.

Section 34. 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 Johnson County, Greenwood Sanitation Department, and these Restrictions.

C. **Connection Requirements for Sanitary Sewers.** All homes 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 35. Sidewalks. Sidewalks shall be constructed as required by the sidewalk plan approved by the Johnson County Plan Commission, which construction shall be the responsibility of the lot owner upon whose lot the sidewalk is to be constructed, provided, however, that any Common Area sidewalks shall be constructed by the Developer as designated on the final development sidewalk plan. All sidewalks to be constructed by lot owners shall be completed at such times as the driveway on the lot is constructed. All sidewalks shall be poured concrete, with expansion joints, such construction to be perpetual and continuous along the street frontages and across the driveway of each Lot. In the event any Owner, or parties with whom Owner contracts for work on the Owner's Lot, causes damage to a sidewalk or street curb such Owner shall be responsible for repairing said damage.

Section 36. 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 37. Signs. No sign of any kind shall be erected within the Properties 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 Properties, the Board reserves the right to restrict the size, color, lettering and placement of such sign. The Board of Directors or Declarant 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 38. 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 39. Tennis Courts, Racquetball Courts, Paddle Ball Courts, Basketball Goals, Etc. Tennis courts, racquetball courts, paddle ball courts, squash courts, and other recreational or sporting facilities will be approved by the Committee only after thorough consideration of the potential effect of such a structure or use in neighboring properties. The Committee will not approve non-baffled lighted courts or facilities. An application for the construction of any such facility will not be considered unless the application is accompanied by an application for an acceptable fence and landscape design approval. It is recommended by the Committee that any such fencing be of an open composition in order to blend in with the surrounding properties and soften the effect on adjacent properties.

All basketball backboards or any other fixed games and play structures shall be located behind the rear foundation line of the main structure and within Lot set-back lines unless otherwise approved by the Committee. The Committee must approve the location and type of basketball goals. All basketball backboards must be made of a transparent material.

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Section 40. Tents, Trailers and Temporary Structures. Except as may be permitted by the Declarant or the Committee during initial construction within the Properties, no tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Lot or the Common Areas. Notwithstanding the above, party tents or similar temporary structures may be erected for special events for a period not longer than 48 hours unless otherwise consented to by the Board of Directors of the Declarant.

Section 41. 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 42. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Properties, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

Section 43. Additional Structures. One detached, non-residential building will be allowed per lot in the Estates upon approval of applicable site plan and building plans by the Committee and the Johnson County Planning Department. The Committee has prepared and promulgated, on behalf of the Board of Directors, design and development guidelines for the minimum standards upon which approval will be based such as, but not limited to, the building having the same architectural style as the existing residential dwelling including similar brick or exterior finish and similar shingles. Additional structures will not be allowed in The Overlook, The Crossings, and The Villages unless approved by the Committee.

2024-019882

RECORDED ON

11/14/2024 09:39:07 AM

TERESA K. PETRO

JOHNSON COUNTY RECORDER

REC FEE: 25.00

PAGES: 36

RECORDED AS PRESENTED

AMENDED AND RESTATED
DECLARATION OF
COVENANTS AND RESTRICTIONS
OF KENSINGTON GROVE

Cross Reference Inst. No. 2002-019741

AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF KENSINGTON GROVE

This Amended and Restated Declaration of Covenants and Restrictions of Kensington Grove was executed as of the date set forth hereafter.

WITNESS THAT the following facts are true:

The Kensington Grove subdivision located in Johnson County, Indiana was established by a certain "Declaration of Covenants and Restrictions of Kensington Grove" which was recorded on June 17, 2002, as **Instrument No. 2002-019741** in the Office of the Recorder of Johnson County, Indiana, said Declaration together with all amendments and/or supplements thereto being hereafter referred to as the "Original Declaration"; and

Plats filed with the Office of the Recorder of Johnson County, Indiana established a total of three hundred two (302) residential Lots and Common Area, comprising the Kensington Grove subdivision in accordance with the Original Declaration; and

Article XVI, Section 1 of the Original Declaration states that its covenants, conditions and restrictions may be amended upon approval by the Owners of at least seventy-five percent (75%) of the Lots; and

No Mortgagees requested notice of such action; and

A Special Meeting of the Owners and members of the Kensington Grove Homeowners Association, Inc. ("Association") was held on August 26, 2024, for the Association's members to discuss the following Amended and Restated Declaration; and

The Owners of more than seventy-five percent (75%) of the Lots approved the following Amended and Restated Declaration; and

The Owners of said Lots desire to amend certain provisions of the Original Declaration and to restate the same for the convenience of the Owners such that this Amended and Restated Declaration of Covenants and Restrictions in no way nullifies or changes the Original Declaration or the effective date of the Original Declaration. However, upon the date of recording of this Amended and Restated Declaration with the County Recorder's Office, the Original Declaration shall no longer be in effect and shall be replaced by the following.

The Original Declaration contained exhibits. For historical purposes, these various exhibits may be referred to from time to time, and therefore, for cross-reference purposes, one should refer to them as they were filed with the County Recorder. Those exhibits, however, are not exhibits to this Amended and Restated Declaration. Except as to any exhibits to the Original Declaration that may remain relevant, all other provisions of the Original Declaration are hereby modified in their entirety, and superseded by this Amended and Restated Declaration.

NOW, THEREFORE, the Owners of more than seventy-five percent (75%) of the total number of Lots in Kensington Grove hereby amend and restate the Original Declaration such that all of the platted dwellings, Lots and lands located within Kensington Grove as they have been platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following restrictions, all of which were and are declared and agreed to be in furtherance of a plan for the improvement and sale of said dwellings, Lots and lands in Kensington Grove. Such restrictions below were and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the development as a whole and of each of said dwellings and Lots situated therein. All of the restrictions shall run with the land and shall be binding upon the 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 such restrictions, and shall inure to the benefit of all successors in title to any real estate in the development. Now, therefore, the Original Declaration which is applicable to all Owners and residents within Kensington Grove is hereby amended and restated as follows:

**AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF
KENSINGTON GROVE**

**ARTICLE I
Definitions**

Section 1.1. 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) "Association" shall mean and refer to Kensington Grove Homeowners Association, Inc., an Indiana nonprofit corporation organized under Indiana Code 23-17-1, et seq., which was incorporated on September 6, 2002, when its Articles of Incorporation were filed with the Indiana Secretary of State;

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

(d) "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, By-Laws and this Declaration;

(e) "By-Laws" shall mean and refer to the Code of By-Laws of the Association, as the same may be amended from time to time;

(f) "Committee" shall mean and refer to the "Kensington Grove 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;

(g) "Common Areas" means those areas designated as such on the Plats for Sections 1 and 2. There are no Common Areas in Sections 3 or 4.

(h) "Common Expense" shall mean and refer to expenses of administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of the Common Areas, and all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses. The Common Expenses arise out of and concern, but are not limited to, the following:

Lakes. The Common Area of the Lakes which with access thereto being provided appropriate governmental agencies concerned with drainage. (See Article XIII Lake Covenants).

The Association reserves the right, but not the obligation, to install, maintain, repair and replace fountains and utility service thereto for one or more of the Lakes.

THE ASSOCIATION MAKES NO REPRESENTATION THAT ANY CERTAIN LEVEL OF WATER WILL BE MAINTAINED IN ANY LAKE.

Signage and Fencing. Identification signage at each of three entrances to Kensington Grove from the major county arteries and accompanying landscaping, plus fencing at the Stones Crossing Road, Travis Road, and Morgantown Road entries.

Park Area (Section 1). This area is unimproved with the Association reserving the right, but not the obligation, to make improvements thereon for the benefit of the Kensington Grove Community. The Association reserves the right to install, without the obligation to install, utilities to service these areas with any user charges arising therefrom to be a Common Expense.

The Center of the Round-About (Section 1). The center of the round-about at the intersection of Coventry and Chancery shall be landscaped to some extent with possible utility service the user utility expense of which will be a Common Expense. Access by the Association shall be by reservation in the dedicated right of way or by an encroachment easement.

(i) " Dwelling Unit" shall mean and refer to any building, structure or portion thereof situated within the Kensington Grove subdivision designed and intended for use and occupancy as a residence by one (1) single family;

(j) "Lakes" shall mean and refer to the Lakes located within the Kensington Grove subdivision;

(k) "Lot" shall mean and refer to any and each portion of the Kensington Grove subdivision designated as such on the Plats.

(l) "Member" means a member of the Association;

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

(n) "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;

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

(p) "The Real Estate" or "Kensington Grove" shall mean and refer to the parcel of real estate in Johnson County, Indiana, described in final Plats filed with the Johnson County Recorder as Kensington Grove;

(q) "Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens, and all other provisions set forth in this Declaration (including those set forth in Exhibit A which is attached hereto), as the same may be amended from time to time;

(r) "Rules and Regulations" shall mean and refer to rules and regulations relative to the use, occupancy, operation, and enjoyment of the Real Estate, the Lots, and the Common Areas;

(s) "Community" or "Project" refers to the Kensington Grove project as it has been developed. There are a total of three hundred two (302) Lots;

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

Section 2.1. Declaration. All of the Lots and the Common Areas within Kensington Grove shall be held, transferred and occupied subject to the Restrictions as covenants running with the Real Estate. The Owners of any Lot, and all other Persons, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, or (ii) by the act of occupancy of any Lot, 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 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 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 agreements.

Section 2.2. Easement to Owner. A non-exclusive easement is granted in favor of each Owner for the use, enjoyment and benefit of the Common Areas 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 Association; Membership; Voting; Functions

Section 3.1. Membership in Association. Each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Association and shall remain a member until such time as his or her ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and membership will be transferred to the new Owner of his or her Lot; 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 or she realizes upon his or her security, at which time he or she shall automatically be and become an Owner and a member of the Association.

Section 3.2. Voting Rights. The Association has a single class of membership consisting of all Owners. Other matters pertaining to voting rights are set forth in the Association's By-Laws.

Section 3.3. Functions. The Association has been 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 (if any) assessed against and payable with respect to the Common Areas, to pay any other necessary expenses and costs in connection with the Common Areas, and to perform such other functions as may be designated for it to perform under this Declaration.

ARTICLE IV Board of Directors

Section 4.1. 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 or she is an Owner of record.

Section 4.2. 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 Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4.3. Term of Office, Vacancy, Number of Directors and Other Board Matters. All other matters pertaining to the Board of Directors are set forth in the By-Laws.

**ARTICLE V
Real Estate Taxes; Utilities**

Section 5.1. 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 paid by the Association and treated as a Common Expense.

Section 5.2. 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, unless otherwise determined by the Association.

**ARTICLE VI
Maintenance, Repair and Replacement**

Section 6.1. By the Owner. Each Owner shall be responsible for, if the need therefor arises, all maintenance, repairs, decoration and replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except for such portions thereof as may, in accordance with the terms of this Declaration, be designated as a part of the Common Areas for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling or any part of the Common Areas or in the judgment of the Board negatively impact on the preservation and enhancement of values in Kensington Grove. Such maintenance and repairs include but are not limited 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.

Section 6.2. By the Association. Maintenance, repairs, replacements and upkeep of the Common Areas shall (except to the extent provided herein as the obligation of Owners) be furnished by the Association, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses as detailed in Article I, Section 1.1(h).

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 items deemed Common Areas for purposes of maintenance), if, due to the

willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, invitee, or other occupant or visitor of such Owner, damage shall be caused to the Common Areas (or items deemed as such for purposes of maintenance), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and 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 or to the Common Areas and items deemed as Common Areas for purposes of maintenance, including, but not limited to, access to any easements reserved, granted or created by any Kensington Grove subdivision plat.

ARTICLE VII Lake Covenants

Section 7.1. Ownership of Lakes. Each Lake area as shown on the Plats are general Common Areas.

Section 7.2. Rights To Use Lakes. Subject to the easement rights with respect to the Lakes described in the recorded plats applicable to the Real Estate, all Owners together with guests in their presence, shall have the rights to use and enjoyment of such Lake provided they access such Lakes only via Common Areas and not through Lots owned by others and provided further that they not interfere with the drainage system of the subdivision of which the Lakes are a part and comply with limitations on the use thereof and Rules and Regulations adopted relative thereto.

Section 7.3. Limitations on Use of Lakes. No person shall do or permit to be done any action or activity which could result in pollution of the Lakes, diversion of water, elevation of Lake levels, earth disturbance resulting in silting or any conduct which could result in an adverse effect upon water quality, drainage of the subdivision or proper Lake management.

The Lakes are and will be an integral part of the storm water drainage system serving the Real Estate and are 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 any of the Lakes which in any way interferes with their proper functioning as part of such storm water drainage system.

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

No boating, swimming, diving, skiing or ice skating shall be permitted in or on said Lakes except as permitted by the Board of Directors under written and promulgated Rules and Regulations.

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 lakes, 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.

Fishing from the shores of such lakes shall be permitted subject to obedience and compliance with all applicable fishing and game laws, ordinances, Rules and Regulations.

Section 7.4. Costs of Maintenance. Estimated costs of maintenance and repair of the Lake property related to the storm water drainage system shall be included in the Common Expenses subject to general assessment for all Lots.

ARTICLE VIII

Architectural Standards

Exterior changes to property after the Dwelling Unit is built requires Committee approval pursuant to Exhibit A. 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 I below.

Section 8.1. Architectural Control Committee. There shall be, and hereby is, created and established the "Kensington Grove Homeowners' Association Architectural Control Committee" ("Committee") which shall have exclusive jurisdiction over all construction on any portion of Kensington Grove except for the original construction of new Dwelling Units. (The original developer's appointees retain that power). The Committee shall be a standing committee of the Association, consisting of not more than seven, nor less than three, persons as may, from time to time, be provided in the By-Laws. If the By-Laws do not at any time provide for the Committee, then the Board shall be and constitute the Committee.

Notwithstanding the provisions of this Article VIII, the original developer shall retain the power to approve all construction of new Dwelling Units that remain to be built.

Section 8.2. 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 the Association or its Managing Agent 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 and builders who seek to engage in development of construction, modification, addition or alteration made on or to any existing structure, upon all or any portion of Kensington Grove and such Owners and builders 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 8.3. 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 this Declaration, 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 8.4. Duties of Committee. The Committee shall approve or disapprove proposed improvements within thirty (30) calendar days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and in the event that such notification is one of disapproval, it shall specify the reason or reasons therefor.

Section 8.5. 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 8.6. 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) estop the Committee from denying a variance in other circumstances. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, the terms of any financing, or the initiation of work without the required approval of the Committee shall not be considered hardships warranting a variance.

Section 8.7. Compliance with Guidelines. Any contractor, subcontractor, agent, employee, or other invitee of an 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 Kensington Grove without liability to any person, subject to the notice and hearing procedures adopted by the Board. 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 the Association.

Section 8.8. Non-Liability of Committee. The Committee shall not 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 does 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 Kensington Grove or any applicable code, regulation or law.

Section 8.9. Inspection. The Committee 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 any agent or contractor employed or engaged by the Committee, 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 shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

Section 8.10. 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 8.11. 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 or she 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 IX
Use Restrictions, Covenants and Regulations

The covenants and restrictions contained in Exhibit A attached and made a part hereof concerning the use and enjoyment of the Lots, Dwelling Units, and Common Areas are in addition to any other covenants or restrictions contained herein and in the Final Plats of Kensington Grove. All such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and are enforceable by an Owner, or by the Association. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof including reasonable attorney fees, but there shall be no right or reversion or forfeiture resulting from such violation.

ARTICLE X
Assessments

Section 10.1. Annual Accounting. Annually, after the close of each fiscal year of the Association, 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 10.2. Proposed Annual Budget. Before the date of the October or November annual 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 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 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 (virtual or otherwise) (i.e. majority of a quorum as defined in the By-Laws of namely 10%); 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 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 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 the new budget.

Section 10.3. Regular Assessments. The annual budget as adopted 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, 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"). The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget. The Regular Assessment against each Lot shall be paid, in full in advance by a date specified by the Board. However, at the option of the Board, the Regular Assessment against each Lot may be paid in advance in equal semi-annual installments. Payment of the Regular Assessment, whether in one payment or in semi-annual installments, shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors. The Board can give the Owners the option of either paying in one lump sum payment or in two semi-annual installments, but if an Owner chooses the option to pay in two installments, the Board can charge an additional fee to cover the extra administrative costs.

Section 10.4. 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 By-Laws or the Indiana Homeowners Association 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, prorated in equal shares (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, and for operating deficits.

Section 10.5. 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 mechanic's lien 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 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 18% per annum. 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. 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 connection with any effort to collect or in any action to recover an Assessment, regardless of whether litigation is initiated, the Board, for and on behalf of the Association, shall be entitled to recover from the Owner of the Dwelling Unit, not only the delinquent Assessments, but also all late fees, interest, all court costs, all costs of collection, charges, fees and expenses incurred by the Association with respect to such collection effort or action, including but not limited to charges, costs, fees or other expenses incurred by the Association to the Managing Agent for administering, monitoring or processing delinquent Owners' accounts, and reasonable attorney's fees. The Association need not accept any tender or a partial payment of an Assessment, or any installment of an Assessment, and all costs, expenses, charges and attorneys fees attributable thereto, and any acceptance of any such tender shall not be deemed to be a waiver of the Association's right to demand and receive full payments thereafter. In addition, the Board shall have the power to adopt by Board resolution additional rules and regulations or delinquency procedures.

(b) Notwithstanding anything contained in this Section or elsewhere in this Declaration, the Articles or the By-Laws, 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).

(c) In addition to the remedies above stated for failure to pay assessments, the Association may disqualify a delinquent Owner from his right to vote and to hold office or committee membership in the Association while Assessment are delinquent in addition to charging a late fee of up to \$25.00 per day of delinquency to among other things, cover the administrative expense of addressing the delinquency.

ARTICLE XI
Mortgages

Section 11.1. Notice to Association. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, may 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 By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record or 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 By-Laws 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 By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

The Association shall, upon written 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 By-Laws which is not cured within sixty (60) days.

Section 11.2. 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 XII
Insurance
Preface

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS ARTICLE XII (INSURANCE), THE ASSOCIATION WILL SEEK TO OBTAIN THE COVERAGES INDICATED SUBJECT HOWEVER TO THE LIMITATION OF WHAT'S AVAILABLE FROM INSURANCE CARRIERS FOR KENSINGTON GROVE COUPLED WITH CONSIDERATION AS TO EXCEPTIONS AND EXCLUSIONS OF COVERAGE, AND DEDUCTABLES TO MAINTAIN CONTROL OF THIS ITEM OF COMMON EXPENSE.

THE ASSOCIATION WELCOMES THE OWNERS' INPUT REGARDING THE BEST COVERAGE FOR THE BEST PRICE AND WILL SUPPLY OWNERS WITH A SUMMARY FROM THE ASSOCIATION'S INSURANCE PROFESSIONAL WHICH WE URGE OWNERS TO SHARE AND CHALLENGE THEIR OWN INSURANCE PROFESSIONAL

FOR RECOMMENDATIONS AS TO THEIR REQUIRED INSURANCE AND ANY ADVISABLE ADDITIONAL COVERAGE (GAP OR OTHERWISE) FOR DIRECT PURCHASE BY OWNERS.

Section 12.1. 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, if any, which, in whole or in part, comprise the Common Areas. 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 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 of 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 12.2. 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 Two Million Dollars (\$2,000,000.00) per occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Areas and shall insure the Association,

the Board of Directors, Officers, any committee or organ of the Association or Board, any Managing Agent appointed or employed by the Association, and all persons acting or who may come to act as agents or employees of any of the foregoing with respect to Kensington Grove, 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 12.3. Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to worker'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 Directors' and Officers' 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 12.4. 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 12.5. 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, his Lot, his Dwelling Unit, the contents 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 XIII
Casualty and Restoration

In the event of damage to or destruction of 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 of the Common Areas, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Areas so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by Association against all of the Owners in equal shares. Any such amounts assessed against the 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 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 of the 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 Common Areas were originally constructed.

ARTICLE XIV
Annexation

The original developer of Kensington Grove developed the community on a section by section basis. The Plat for Section One was the first filed with the County Recorder. Thereafter, the developer filed Plats for Sections Two, Three and Four. As a result of that process, there are a total of three hundred two (302) Lots in Kensington Grove. All Lots are subject to this Declaration.

ARTICLE XV
Amendment of Declaration

Section 15.1. Generally. This Declaration may be amended or changed, in whole or in part, at any time upon approval by the Owners of at least one hundred eighty (180) of the three hundred and two (302) Lots in Kensington Grove. All Owners must be given the opportunity to vote on the proposed amendment(s). Such approval for an amendment to this Declaration may be obtained:

- (a) at a meeting of the members of the Association duly called and held in accordance with the provisions of the Association's By-Laws; or
- (b) by written consents or approvals received from the Owners either by U.S. Mail, express delivery, hand delivery, email, or through an online voting platform; or
- (c) pursuant to any other procedure recognized under Indiana law, including those recognized under the Indiana Nonprofit Corporations Act of 1991, as amended, including, but not limited to, written mail-in ballots; or
- (d) any combination of the above.

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.

(b) 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 this Declaration with respect to casualty insurance to be maintained by the Association, or (3) the provisions 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.

(c) 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.

ARTICLE XVI
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 By-Laws 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 By-Laws 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 By-Laws, and the rules, regulations and guidelines applicable thereto as each may be amended or supplemented from time to time.

ARTICLE XVII 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 XVIII Benefit and Enforcement

Section 18.1. 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 this Amended and Restated Declaration is recorded, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless at any time all Lot Owners agree to terminate said covenants in whole and in their entirety; provided, however, that no 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 18.2. Prosecution of Violations. Subject to the requirements and provisions of the By-Laws concerning "Grievance Resolution Procedures" that are mandated by the Indiana Homeowners Association Act, it shall be lawful for the Association, the Committee (as to matters for which it has responsibility) or any Lot Owner 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.

The Association may as respects an Owner who violates these restrictions, after written notice to the Owner detailing the nature of the violation with a time period established by the Association to cure or conform, disqualify the voting rights and right to hold office while the violation continues and may further in the Board's sole discretion, impose a fine (if permitted by law), in whole or in part, with each day after the cure period being a separate violation at a chargeable rate of up to one hundred dollars (\$100.00) per violation per day. This fine, if not paid when required, will be processed and collected in the same manner as delinquent assessments.

ARTICLE XIX 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 Kensington Grove Project, or for any defects in the construction thereof.

ARTICLE XX Miscellaneous

Section 20.1. 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 By-Laws, or to comply with any provision of this Declaration, the Articles, the By-Laws, 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 20.2. 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 20.3. Severability Clause. The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the By-Laws shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles or the By-Laws and each shall be enforceable to the greatest extent permitted by law.

Section 20.4. 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 20.5. 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.

[EXHIBIT A FOLLOWS]

EXHIBIT A

**ARTICLE XXI
Kensington Grove
Covenants and Restrictions**

Section 21.1. Air Cooling Units; Backup Power Generators. Air cooling units, backup power generators or other like utilities that are outside of the residential structure must be located at the side or rear of the home and except as may be permitted by the Committee. No window air conditioning units may be installed on any Lot.

Section 21.2. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats or other usual and common household pets not to exceed a total of three (3) may be permitted on a Lot unless approved by the Association. 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 shall be removed upon the request of 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.

Section 21.3. 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 Properties, including any Lot, without the prior written consent of the Committee; provided, however, that any such device may be installed and maintained on any Lot without the necessity of such written approval if: (a) it is not visible from the neighboring Lots, streets or Common Area; or (b) the device is virtually indistinguishable from structures, devices, or improvements, such as heat pumps, air-conditioning units, barbecue grills, patio furniture, and garden equipment, which are not prohibited by these covenants or the rules and regulations of the Association, or (c) it is a satellite dish one (1) meter (approximately 39") or less in diameter and not affixed to the roof of a residence; or (d) if prohibition of the installation, use, and maintenance of such device is specifically preempted and superseded by applicable governmental authority.

Section 21.4. Artificial Vegetation, Artificial Turf, Exterior Sculpture, and Similar Items. No artificial vegetation (including artificial turf) shall be permitted on the exterior of any portion of the Lots except as approved by the Architectural Control Committee. Exterior sculpture, fountains, and similar items must be approved in accordance with Article VIII of this Declaration.

Section 21.5. 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 Unit 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 Unit; (b) the business activity conforms to all zoning requirements, (c) the business activity does not involve persons coming onto the Kensington Grove property who do not reside in Kensington Grove or door-to-door solicitation of residents of Kensington Grove; and (d) the

business activity is consistent with the residential character of Kensington Grove and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of Kensington Grove, as may be determined in the sole discretion of the Board.

Section 21.6. Clothesline, Garbage Cans, Tanks, Etc. All clothes, sheets, blankets, rugs, laundry clotheslines, garbage cans, mechanical equipment (except air conditioning and heat pump units), 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. Outside clotheslines and open air composting systems will not be permitted. Fuel storage tanks will not be allowed. All rubbish, trash, and garbage shall be stored in appropriate containers approved by the Committee hereof and shall regularly be removed from the Lots and shall not be allowed to accumulate thereon. No Owner shall burn or permit burning out-of-doors of garbage or other refuse.

Section 21.7. 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, or remove any unauthorized item or structure, situated thereon in accordance with the provisions of these Restrictions and the provisions of any recorded plat, the Association through its agents and employees or contractors, should have the right to enter upon said Lot and repair, mow, 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 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 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 21.8. 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 21.9. Drilling. No oil or water drillings, oil development operations, oil refining, quarries or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted on any Lot.

Section 21.10. 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 VIII of this Declaration.

Solar installations must have the approval of the Committee before any work is undertaken. An application for the installation of solar panels will not be considered unless the application is accompanied by a site plan, description of the dwelling, color of the solar system, name of the professional vendor and installer, plans and specifications of the solar system. Installations other than on the roof will not be considered. Roof installations that extend over the roof by more than six (6) inches are not permitted.

Section 21.11. 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 VIII of this Declaration. The only style of approved fence will be a four foot high black wrought-iron style. Chain-link fences will not be permitted.

Section 21.12. Firearms. The discharge of firearms within the Properties is prohibited. The term "Firearms" includes bows and arrows, slingshots "B-B" guns, pellet guns, paint-ball guns and other firearms of all types, regardless of size. Notwithstanding anything to the contrary, contained herein or in the By-Laws, the Association shall not be obligated to take action to enforce this Section.

Section 21.13. 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 21.14. 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 21.15. 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 21.16. Landscape Easements. There are strips and areas of ground shown marked "Landscape Easement" on the Final Plats. They are reserved for the use of Owners of Lots to the extent and limited for the purposes set forth in this Declaration and for the use of the 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 this Declaration, or by the Association, no Owner can erect or maintain a permanent or other structure (except for approved walls, sidewalks and fences) on said strips, and the Owners of such Lots shall take and hold title to their lots subject to the foregoing rights of 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 original developer or the Association in any such "Landscape Easement".

Section 21.17. Landscaping. Landscape modifications will not require approval by the Committee under the following conditions: (1) the landscaped area is not enlarged; (2) landscape plants are replaced by similar kind and like quality of plants and trees fitting with the general style of the Kensington Grove community; (3) trees do not exceed twelve (12) feet in height at planting; and (4) drainage easements are not affected. Modifications to an existing patio or deck will not require approval by the Committee if the patio or deck is not enlarged, the painting/stain compliments the house's colors, and the changes are in keeping with the general style of the property. In all other cases, approval by the Committee will be required. Landscape lighting does not require approval.

Section 21.18. Lighting. Except for seasonal holiday decorative lights, the only approved color for exterior lighting is white. Holiday decorative lights must be removed as soon as possible following the holiday.

Section 21.19. 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 Kensington Grove. No waste shall be committed in any Dwelling or on any Lot. Each Owner shall:

- (i) Mow the Lot at such times as may be reasonably required in order to keep the grass no longer than five inches and prevent the unsightly growth of vegetation and noxious weeds;
- (ii) Remove all debris or rubbish;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Kensington Grove subdivision;
- (iv) Cut down and remove dead trees;
- (v) Where applicable, prevent debris and foreign material from entering drainage areas;
and

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

Section 21.20. Home Occupations. No Lot or Lots shall be used by an Owner for any purpose other than as a single-family residence, except that a home occupation, which satisfies the following definition as well as all requirements of the applicable zoning ordinance, may be permitted: any use conducted entirely within the Dwelling and participated in solely by a member of the immediate family residing in said Dwelling, which use is clearly incidental and secondary to the use of the Dwelling for dwelling purposes and does not change the character thereof and in connection with which there is: (a) no sign or display that will indicate from the exterior that the Dwelling is being utilized in whole or in part for any purpose other than that of a dwelling; (b) no commodity sold upon the premises; (c) no person is employed other than a member of the immediate family residing in the Dwelling; (d) such office or business generates no significant number of visits or unreasonable parking usage by clients, customers or other persons related to the business; and (e) no manufacture or assembly operations are conducted. Provided however, that in no event shall the following or similar activities be conducted or considered to be a permitted Home Occupation: child day care, barber shop, styling salon, animal hospital, or any form of animal care or treatment such as dog grooming, or any other similar activities.

Section 21.21. 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 21.22. Occupancy and Residential Use of Partially Completed Dwelling House Prohibited. No Dwelling Unit constructed or reconstructed on any of the Lots shall be occupied or used for residential purposes until an occupancy permit has been obtained.

Section 21.23. Occupants Bound. All provisions of this Declaration, the By-Laws 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 this Declaration, the By-Laws 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 this Declaration, the By-Laws and rules and regulations adopted pursuant thereto.

Section 21.24. 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 21.25. 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 or containing visible equipment, vehicles primarily used or designed for commercial purposes, tractors, mobile homes, recreational vehicles, trucks being bigger than one 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 Properties 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 Properties 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 By-Laws.
- (c) **Garages and Driveways.** No dwelling shall have less than a full size 2-car or more than a 3-car attached garage, unless otherwise approved by the Committee. All driveways and vehicle parking areas must be hard surfaced with concrete, must meet the architectural standards of the Kensington Grove community, and shall be so surfaced from their point of connection with the abutting street to their point of connection with the garage apron. No gravel, asphalt or stone driveways will be permitted. Only concrete is permitted. For Owners who own two (2) contiguous Lots, no additional driveway is permitted.

Section 21.26. Playground. Any Playground or other play areas or equipment furnished by the Association or erected within Kensington Grove 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. No playground equipment (including, but not limited to, trampolines), tree houses, or similar structures shall be erected on any Lot without prior approval pursuant to Article VIII hereof; provided, however, children's play equipment such as sandboxes, swings and slides, shall not require approval by the Committee provided such equipment is not more than eight (8) feet high, maintained by the Owner in good repair (including painting) and every reasonable effort has been made by the Owner to screen or shield such equipment from view of adjacent Lot Owners. Equipment higher than eight (8) feet shall require approval of the design, location, color, material and use by the Committee.

Section 21.27. Private Water Wells. Private water wells will not be allowed.

Section 21.28. Prohibition of Used Structures. All structures constructed or reconstructed or placed on any Lot shall be constructed or reconstructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

Section 21.29. Quiet Enjoyment. No portion of Kensington Grove shall be used, in whole or in part, for the storage of 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 Kensington Grove 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 Kensington Grove. 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, loudspeakers, 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 Kensington Grove. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within Kensington Grove. Gas-sourced fire pits are permitted. Also, excessive grass clippings from the mowing of lawns or other lawn/tree rubbish will not be allowed to be left on any street within the development.

Section 21.30. Residential Use. Kensington Grove 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 Kensington Grove at any time owned by the Association which constitutes a part of the Common Areas and upon which no Dwelling Unit is located.

Section 21.31. 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.

Section 21.32. Sidewalks. Sidewalks shall be constructed as required by the sidewalk plan approved by the Johnson County Plan Commission, which construction shall be the responsibility of the lot owner upon whose lot the sidewalk is constructed, provided, however, that any Common Area sidewalks were constructed by the original Developer as designated on the final development sidewalk plan. All sidewalks shall be poured concrete, with expansion joints, such construction to be perpetual and continuous along the street frontages and across the driveway of each Lot. If there is damage to a sidewalk or street curb caused by the Owner, the Owner's guests, or by a contractor hired by the Owner, or by force of nature, in such a manner as to cause a safety hazard, such Owner shall be responsible for repairing said damage. Maintenance of Common Area sidewalks is the responsibility of the Association.

Section 21.33. 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 21.34. Signs. No yard signs on the Owner's Lot are permitted, except for the following: Contractor and realtor signs are permitted while the contractor is working on the Owner's property or while the property is for sale. When work has completed, or the property has sold and closed, Owner must remove the sign. School spirit signs are allowed. Signs must be placed adjacent to the home. Other signs advertising businesses or services are not permitted. Political signs are permitted subject to the following restrictions: (1) Only one sign per Lot owned by the Owner; (2) signs must be no larger than 24 inches by 18 inches; (3) signs may only be displayed beginning thirty (30) days before and ending five (5) days after the date of the election to which the sign relates.

Section 21.35. 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, jacuzzies 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 on 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. Overhead lighting should have low impact on neighboring properties. Swimming pool accessories (pool toys, floats, etc.) must be stored out of sight when not in use.

Section 21.36. Tennis Courts, Racquetball Courts, Pickle Ball Courts, Paddle Ball Courts, Etc. Tennis courts, racquetball courts, pickle ball courts, paddle ball courts, squash courts, and other recreational or sporting facilities are not permitted.

Section 21.37. Basketball Goals. All basketball backboards or any other fixed games and play structures shall be located behind the front foundation line of the main structure (defined as containing first floor living space) and within Lot set-back lines unless otherwise approved by the Committee. In cases where it is not feasible to install the basketball goal behind the front foundation line, the basketball goal must be located within fifteen (15) feet of the front foundation line of the main structure but not closer than twenty (20) feet from the street. The Committee must approve the location and type of basketball goals. All basketball backboards must be made of a transparent material.

When placement of the basketball goal can impact neighboring property due to errant balls, the Lot Owner must notify the affected neighbor of their intent to install the basketball goal. Approval by the Committee will be considered when the application is accompanied by (1) an affidavit affirming that the neighbor has been informed about the basketball goal; and (2) a plan to add a barrier, landscape or otherwise, to minimize balls from entering the neighbor's Lot.

Permanent basketball goals must be well-maintained. Needed repairs or replacements must be promptly addressed to ensure proper function and visual appeal. No lighted basketball goals or courts are permitted.

Only permanent basketball goals are allowed. All other kinds of basketball goals, including temporary or portable basketball goals, are prohibited.

Section 21.38. Tents, Trailers and Temporary Structures. No tent, utility shed, shack, trailer or other structure of a temporary nature shall be placed upon a Lot or the Common Areas. Notwithstanding the above, party tents or similar temporary structures may be erected for special events for a period not longer than 48 hours unless otherwise consented to by the Board of Directors.

Section 21.39. 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 21.40. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within Kensington Grove, except for temporary lines as required during construction and high voltage lines if required by law or for safety purposes.

Section 21.41. Additional Structures. One detached, non-residential building will be allowed per lot in the Estates upon approval of applicable site plan and building plans by the Committee and the Johnson County Planning Department. The Committee has prepared and promulgated, on behalf of the Board of Directors, design and development guidelines for the minimum standards upon which approval will be based such as, but not limited to, the building having the same architectural style as the existing residential dwelling including similar brick or exterior finish and similar shingles. Additional structures will not be allowed in The Overlook, The Crossings, and The Villages unless approved by the Committee.

Section 21.42. Flags. Flags are permitted when attached to the Owner's dwelling with mounting hardware. Only one (1) mounted flag per Lot. Flags can be no larger than five (5) feet by three (3) feet. Flags are not permitted to be affixed to the mailbox. Flagpole installations must be approved by the Committee. Only one (1) flagpole is permitted per Lot. No more than two flags may be added to a flagpole.

ARTICLE XXII Leasing and Rental Restrictions

Section 22.1. General Prohibition of Leased Dwelling Units and Lots ("Rental Ban"). The members of the Association wish to ensure that the residents within Kensington Grove share the same proprietary interest in and respect of the Dwelling Units, the Common

Areas and the other portions of the Kensington Grove community that the Association maintains, and to encourage residents to not only maintain property values but also to improve them. **Thus, there shall be no leasing, rental or occupancy of any Dwelling Unit or Lot except as otherwise provided in this Article XXII.**

Section 22.2. "Rental" and "Lease" Defined. The "Rental Ban" described in this Article XXII is intended to apply to all forms of non-Owner occupancies, including but not limited to Leases, Rentals, Land Contracts, or Rent-to-Own Agreements, except as specifically provided herein. For the purposes of this Article XXII, "rented" or "leased," as used interchangeably herein, means leased or rented or occupied, whether or not for compensation of any kind, by anyone other than an Owner of the Lot together with members of his or her household. However, the "Rental Ban" will not apply to any situation where a Dwelling Unit is occupied by members of the Owner's family (persons related by blood, marriage, adoption, foster care, or guardianship), or where the Owner continues to live in the Dwelling Unit as his or her principal place of residence. "Family" occupancy will not be considered to be a "rental" in the context of the Rental Ban; provided, however, the Owner and occupants are still subject to the remaining provisions and requirements of this Article XXII.

Any Lot owned by a Trustee or by a Fiduciary shall not be deemed to be a rental, provided that the resident is the Trustee, the Fiduciary of an Estate, or a beneficiary of the Trust or Estate, and further provided that no rent, payment, service or other consideration is paid or provided to the Owner or any other party in connection with that occupancy. The Trustee or Fiduciary shall submit a certificate to the Association indicating who is authorized to reside in the Dwelling Unit.

If the Dwelling Unit is occupied by a manager of an Owner that is a limited liability corporation, or a shareholder of an Owner that is a corporation, it will not be deemed a rental, provided that no rent, payment, service or other consideration is paid or provided to the Owner or any other person or party in connection with that occupancy. All other occupancies of a Dwelling Unit by representatives, employees, agents, guests, or lessees of a corporation, partnership or other entity shall be considered rentals for the purpose of this Rental Ban and are therefore prohibited. Any Dwelling Unit owned by a corporate entity shall submit a certificate of designated representative to the Association. This certificate will indicate both who is authorized to vote on behalf of the corporation as well as who is authorized to reside in the Dwelling Unit.

Section 22.3. Effective Date of "Rental Ban." As of the date on which this Article XXII is recorded with the Johnson County Recorder (the "Recording Date"), these rental restrictions shall be deemed effective. Within thirty (30) days after the Recording Date, the Board shall provide written notice to all Owners setting forth the Recording Date. The Rental Ban shall not apply to any existing lease or rental in place as of the Recording Date, so long as the Owner-landlord mails or otherwise delivers to the Board or the Association's Managing Agent (at the address shown in the notice of the Recording Date), within sixty (60) days after the Recording Date, a copy of each executed lease of such Dwelling Unit which is in effect as of the Recording Date. The Owners of such pre-Recording Date rented Lots shall not be subject to the Rental Ban, but shall be subject to the remaining provisions of this Article XXII. However, when the legal Owners of record of any of the pre-Recording Date rented Lots sell, transfer or convey such

Lot(s) to another Owner after the date of recording of this Amendment, such Lots shall immediately become subject to the Rental Ban. The failure of any such Owner-landlord of a leased or rented Lot to deliver a copy of such pre-Recording Date lease within said sixty (60) day period to the Board or Managing Agent shall result in said Owner-landlord's Lot(s) being subject to the Rental Ban (from and after the date of expiration of such pre-Recording Date lease).

Section 22.4. Hardship Exceptions and Waiver. An Owner may request the Board to waive the Rental Ban if the Owner establishes to the Board's satisfaction that the Rental Ban will cause an "undue hardship" as defined below. If the Board approves the Owner's request in writing, the Owner may rent or lease said Dwelling Unit, subject to any further conditions or limitations imposed by the Board in the Board's discretion, but only if the Owner satisfies all other requirements of Article XXII. Such decision shall be at the sole discretion of the Board and shall be subject to further conditions and limitations as the Board deems appropriate. The Board will only consider one of the following circumstances as an "undue hardship":

- a. Divorce or marriage of an Owner;
- b. Death of an Owner;
- c. The Owner is a reservist in the United States Armed Forces who is called to temporary active duty, or is active-duty personnel in the United States Armed Forces who is temporarily deployed more than one hundred (100) miles from Kensington Grove;
- d. Temporary job transfer of an Owner greater than one hundred (100) miles from Kensington Grove.

If an Owner desires to request an exception based upon one of the above hardship circumstances, the Owner must submit a written request describing the nature of the alleged hardship and need to rent. The Board may approve or deny such requests as it deems appropriate. As part of the conditions for any approval, the Board can also require the Owner to reapply after one year to seek an extension of the Board's approval. However, in no circumstance can a Dwelling Unit be rented for more than two (2) years.

Section 22.5. General Lease Conditions.

- a. All permitted leases, including renewals, shall be in writing, and no lease shall be entered into for an initial term of less than one (1) year or more than two (2) years without the prior written approval of the Board.
- b. No portion of any Dwelling Unit or Lot other than the entire Dwelling Unit and Lot shall be leased for any period.
- c. No subleasing shall be permitted.

d. All leases shall be made expressly subject and subordinate in all respects to the terms of this Declaration, the By-Laws, and any rules and regulations promulgated by the Board, as amended, (collectively referred to as the "Governing Documents") to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease.

e. The Owner must supply copies of such Governing Documents to the tenants prior to the effective date of the lease.

f. In addition, the Board shall have power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing.

g. All Owners who do not reside in the Dwelling Unit must provide the Board with the name of the tenant(s) and any other adult residents living in the Dwelling Unit, together with phone numbers and email addresses.

Section 22.6. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association for compliance with the provisions of the Governing Documents, or from the Owner's liability to the Association for payments of assessments or any other charges.

Section 22.7. Association's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount and personal identifying information deleted) shall be provided to the Board by the Owner within thirty (30) days after execution.

Section 22.8. Violations. Any lease or attempted lease of a Dwelling Unit in violation of the provisions of this Article XXII is voidable at the election of the Board, except that neither party to such lease may assert this provision of this Article XXII to avoid its obligations thereunder. In the event of a violation of this Article XXII, the Association, or any Owner, shall have the right to exercise any available remedies at law or equity, including commencement of an action for injunctive relief to have the occupants removed from the Dwelling Unit. If the Association takes action to enforce this Article XXII, the Association shall have the right to recover all costs incurred in connection with its enforcement efforts, including attorneys' fees.

Section 22.9. Burden of Proof. Anything to the contrary herein notwithstanding, if at any time a Dwelling Unit is not occupied by one of the Owners thereof, there shall be a presumption that the Dwelling Unit is being leased and subject to the provisions of this Article XXII and the Owner shall have the burden of proving to the satisfaction of the Board that the occupancy is not in violation of the terms of this Article XXII, including but not limited to the delivery to the Board of a written statement of the nature and circumstances of the occupancy and any written document or memorandum that is the legal basis for the occupancy. For purposes of this Article XXII and this Section 22.9, any occupancy (including occupancy pursuant to a rent-to-own contract, land contract, any option to purchase, or similar agreement) by anyone other than an Owner shall be deemed a rental.

Section 22.10. Short-Term Rentals. Owners shall not lease, rent, or otherwise operate their Dwelling Unit on a hotel, transient or short-term rental basis. For the purpose of Article XXII, "short-term rental" is defined as any term of less than one (1) year. This short-term rental prohibition includes, but is not limited to, the use of a short-term rental platform through which unaffiliated parties offer to rent a Dwelling Unit or portion thereof to an occupant and collect consideration for the rental from the occupant. (For example, VRBO or Airbnb.)

Section 22.11. Institutional Mortgagees. The provisions of this Article XXII shall not apply to any institutional mortgagee (like a bank or mortgage company) of any Dwelling Unit which comes into possession of a Dwelling Unit. However, when a Dwelling Unit is sold or conveyed by such an institutional mortgagee to a subsequent purchaser, that subsequent purchaser or Owner shall be bound by the provisions of this Article XXII.

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The undersigned officers hereby represent and certify that all requirements for and conditions precedent for the effectiveness of this Amended and Restated Declaration of Covenants and Restrictions have been fulfilled and satisfied.

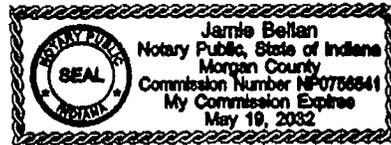
Executed this 13 day of ~~October~~^{November}, 2024.

Kensington Grove Homeowners Association, Inc., by:

Terry Cleveland, President
Terry Cleveland, President

Attest:

Tino Marquez
Tino Marquez, Secretary



STATE OF INDIANA)
) SS:
COUNTY OF Johnson)

Before me, a notary public, in and for said County and State, personally appeared Terry Cleveland and Tino Marquez, the President and Secretary, respectively, of Kensington Grove Homeowners Association, Inc., an Indiana nonprofit corporation, who acknowledged execution of the within and foregoing for and on behalf of said corporation and its members and who, being duly sworn, stated that the certifications and representations made therein are true. Witness my hand and notarial seal this 13 day of ~~October~~^{November}, 2024.

Jamie Bellan
Notary Public - Signature

Jamie Bellan
Printed

My Commission Expires:
May 19, 2032

Residence County: Morgan

"I 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."

/s/ P. Thomas Murray, Jr., Esq.

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., EADS MURRAY & PUGH, P.C., Attorneys at Law, 9515 E. 59th Street., Suite B, Indianapolis, IN 46216. Telephone (317) 536-2565.

**AMENDED AND RESTATED CODE OF BY-LAWS OF
KENSINGTON GROVE HOMEOWNERS ASSOCIATION, INC.**

An Indiana Nonprofit Corporation

COMES NOW the Kensington Grove Homeowners Association, Inc. (hereinafter "Association"), by its Board of Directors, and states as follows:

WITNESSETH THAT:

The residential community in Greenwood, Johnson County, Indiana commonly known as Kensington Grove was established upon the recording of certain Plats with the Johnson County Recorder; and

The Plats for Kensington Grove were originally subject to a certain "Declaration of Covenants, Conditions and Restrictions of Kensington Grove Community", which was filed on June 17, 2002, with the Johnson County Recorder as Instrument No. 2002-019741 (the "Declaration"); and

The Association was incorporated pursuant to the Declaration as a nonprofit corporation pursuant to Articles of Incorporation filed with, and approved by, the Indiana Secretary of State on or about September 6, 2002; and

The Association's Board of Directors (while under the developer's control) originally adopted a Code of By-Laws for the Association and the homeowners within Kensington Grove; and

The Board of Directors desires to amend the By-Laws of the Association and to restate them for the convenience of the Owners.

WHEREFORE, the following Amended and Restated Code of By-Laws for the Association is hereby approved and adopted by the Board of Directors of the Association, after being approved by the owners of more than seventy-five percent (75%) of the total number of lots in Kensington Grove and are effective as of October 2, 2024. The following By-Laws shall supersede and replace all former By-Laws of the Association.

**AMENDED AND RESTATED CODE OF BY-LAWS OF
KENSINGTON GROVE HOMEOWNERS ASSOCIATION, INC.**

An Indiana Nonprofit Corporation

ARTICLE 1

NAME

Section 1.1. Name. The name of this corporation is Kensington Grove Homeowners Association, Inc. (hereinafter referred to as "**Association**").

ARTICLE 2

IDENTIFICATION & APPLICABILITY

Section 2.1. Identification and Adoption. The provisions of these By-Laws shall apply to the Kensington Grove community (sometimes referred to in these By-Laws as the "**Neighborhood**") and the administration and conduct of the affairs of the Association.

Section 2.2. Individual Application. Each of the Owners within the Neighborhood shall automatically and mandatorily be Members of the Association and be entitled to all the privileges and subject to all of the obligations thereof. All Owners, by their acceptance of their respective deeds to their Lots covenant and agree to be bound by the conditions, restrictions, and obligations contained in the Declaration of Covenants & Restrictions of Kensington Grove Community, said Declaration being recorded in the Johnson County Recorder's Office on June 17, 2002, as Instrument No. 2002-019741 (hereafter, "**Declaration**"), together with all amendments or supplements thereto, the Articles of Incorporation, the rules and regulations of the Association and of the provisions hereof. All of the Owners, future Owners, tenants, future tenants, their guests and invitees, or any other person who might now or hereafter use or occupy a Lot or any part of the Common Areas shall be subject to the rules, restrictions, terms, and conditions set forth in the Declaration, the Articles of Incorporation, these By-Laws, the Indiana Homeowners Association Act found at Indiana Code 32-25.5 (the "**HOA Act**") (but only to the extent that the provisions of the HOA Act are applicable to the Association since it was created prior to the enactment of the HOA Act), and the mandatory provisions of the Indiana Nonprofit Corporation Act found at Indiana Code 23-17 (the "**Nonprofit Act**"), all as the same may be amended from time to time, and to any rules and regulations adopted by the Board of Directors as herein provided. The Declaration is incorporated herein by reference. All the covenants, rights, restrictions, and liabilities contained in the Declaration shall apply to and govern the interpretation of the Articles of Incorporation and these By-Laws. The definitions and terms, as defined and used in the Declaration, shall have the same meaning in the Articles of Incorporation and these By-Laws, and reference is specifically made to Article I of the Declaration containing definitions for terms, unless otherwise indicated herein.

ARTICLE 3

MEETINGS OF THE ASSOCIATION

Section 3.1. Purpose of Meetings. At least annually, and at such other times as may be necessary or appropriate, a meeting of the Members shall be held for the purpose of electing the Board of Directors, reviewing and approving the annual budget (if necessary pursuant to the Declaration), and for such other purposes as may be required by the Declaration, these By-Laws, the Articles of Incorporation, the HOA Act, or the Nonprofit Act.

Section 3.2. Annual Meeting. The annual meeting for the Members of the Association shall be held in the month of October or November each year, with the specific date, time and place to be determined by the Board of Directors. At each annual meeting, the Members shall elect the Board of Directors of the Association in accordance with the provisions of these By-Laws and transact such other business as may properly come before the meeting.

Section 3.3. Special Meetings. A special meeting of the Members of the Association may be called by the President, by resolution of the Board of Directors or upon a written petition of the Owners of not less than ten percent (10%) of the total number of Lots. The resolution or petition shall be presented to the President or Secretary of the Association and shall state the purpose for which the meeting is to be called. No business shall be transacted at a special meeting except as stated in the petition or resolution.

If the Board of Directors fails to send out a notice of the date, time, and place for a special meeting within thirty (30) days after the date the Board receives a valid written demand for the special meeting under this Section, a Member of the Association who signed the written demand may:

- (1) set the date, time, and place for the special meeting; and
- (2) send out the notice for the special meeting to the other Members.

Section 3.4. Notice and Place of Meetings. All meetings of the Members of the Association shall be held within the Neighborhood or at any suitable place in Johnson County, Indiana, as may be designated by the Board of Directors. Written notice stating the date, time, and place of any meeting, and in the case of a special meeting the purpose or purposes for which the meeting is called, shall be delivered or mailed by the Secretary of the Association to each Member entitled to vote thereat not less than fourteen (14) days prior to the date of such meeting. Any written notice delivered to the Members as part of a newsletter or other publication regularly sent to the Members constitutes a written notice. If at any meeting an amendment to the Declaration, the Plat Covenants, the Articles of Incorporation, or these By-Laws is to be considered, the notice of such meeting shall describe the nature of such proposed amendment. All notices shall be mailed by first-class U.S. Mail, postage prepaid, or delivered to the Members at their respective addresses as the same shall appear upon the records of the Association. If an annual or special meeting of Members is adjourned to a different date, time or place, written notice is not required to be given of the new date, time or place so long as the new date, time and place is announced at the meeting pursuant to the Nonprofit Act before adjournment.

In lieu of written notices from the Association sent pursuant to the above paragraph, an Owner may elect to receive notices from the Association by email. Any Owner choosing email shall be

deemed to have waived the right to receive notices from the Association by U.S. Mail or personal delivery. However, any such Owner shall have the right at any time to withdraw his or her election to receive notice by email and shall thereafter be sent notices by the Association pursuant to the above paragraph.

Section 3.5. Voting.

(a) Number of Votes. Each Member shall be entitled to cast one (1) vote for each Lot of which such Member is the Owner. In voting for Directors, each Owner (or his or her representative) shall be entitled to cast one (1) vote for each directorship being filled at that meeting, and the candidate(s) receiving the highest number of votes shall fill the available directorship(s); provided that no Owner shall be allowed to accumulate his or her votes. To the extent provided in the Nonprofit Act, and except as otherwise provided in the Declaration, the Articles of Incorporation or these By-Laws, plurality voting shall be permitted such that at a meeting, if a quorum exists, action on a matter is approved if the votes cast in favor of the action exceed the votes opposing the action.

(b) Multiple Owners. When more than one (1) person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be Members of the Association, but all of such persons or entities 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.

(c) Voting by Corporation, Trust or Other Legal Entities. Where a corporation or trust is an Owner or is otherwise entitled to vote, the trustees may cast the vote on behalf of the trust, and the agent or other representative of the corporation duly empowered by the board of directors of such corporation shall cast the vote to which the corporation is entitled. The secretary of such corporation or a trustee of such trust so entitled to vote shall deliver or cause to be delivered prior to the commencement of the meeting a certificate signed by such person to the Secretary of the Association stating who is authorized to vote on behalf of said corporation or trust. Similar procedures shall be in effect for any other form of legal entity that is not a natural person, such as a limited liability company, limited liability partnership, etc.

(d) Proxy. An Owner may vote either in person or by his or her duly authorized and designated attorney-in-fact. Where voting is by proxy, the Owner shall duly designate his or her attorney-in-fact in writing, delivered to the Secretary of the Association prior to the commencement of the meeting. Delivery of a proxy can be by hand delivery, first-class mail, fax or email. No such proxy shall remain valid for longer than one hundred eighty (180) days from the date it is signed. To be valid, a proxy must contain:

1. The name and address of the Owner who is giving the proxy;
2. The name of the person being appointed as proxy;
3. The date on which the proxy is given;

4. The date of the meeting for which the proxy is given;
5. The signature of the Owner who is giving the proxy; and
6. An affirmation under the penalties of perjury that the individual signing the proxy has the authority to grant the proxy to the individual named in the proxy to exercise it on the Owner's behalf.

A proxy may be revoked in writing by the Owner prior to it being exercised or by the Owner's personal attendance at the meeting where the vote is to be taken.

(e) Quorum. Except where otherwise expressly provided in the Declaration, the HOA Act, or the Nonprofit Act, the presence of Owners or their duly authorized proxy holders (including Owners who participate as described below in Section 3.5(g) such as attending via videoconference or participating by electronic voting) who own at least ten percent (10%) of the total number of Lots shall constitute a **Quorum** at all meetings. Since there are a total of three hundred two (302) Lots, that means that the Quorum is thirty-one (31) Lots. The Owners at a meeting at which a quorum is initially present may continue to do business until adjournment, notwithstanding the withdrawal of enough Owners to leave less than a Quorum. If a quorum is not present, the meeting may be adjourned to a date not more than sixty (60) days later without notice other than announcement at the meeting even though less than a Quorum is present. As used elsewhere in these By-Laws, the term "**Majority of the Vote**" shall mean a majority of the votes of the Owners present or represented at a meeting at which a Quorum is present.

(f) Suspension of Voting Rights. To be considered in "**Good Standing**", an Owner cannot be more than sixty (60) days delinquent in any payment due to the Association. If an Owner is not in Good Standing, he or she shall not be eligible to vote, either in person or by proxy, or to be elected to, or to serve on, the Board of Directors. In addition, any Owner who is not in Good Standing cannot serve as a proxy for another Owner.

(g) Manner of Voting and Meeting Participation. Voting and meeting participation may be held or performed in any manner set forth in the Declaration or these By-Laws as well as any manner that is not prohibited by the Nonprofit Act or the HOA Act, or deemed acceptable by the Courts as a practical way to collect votes and allow Owners to participate in Association actions. Membership meetings may be conducted by any means through which all participating members can simultaneously hear each other during the meeting, including, but not limited to, videoconference (i.e., Zoom, Teams, Go-to-Meeting). An Owner participating in a meeting by this means is considered to be present in person at the meeting. In the event that the Board elects to hold a membership meeting remotely, the Board shall have discretion to provide for such procedures and to set the terms of use, including, but not limited to, establishing guidelines and procedures governing voting and submission of ballots.

Furthermore, the Board of Directors shall have the power to authorize voting by the Owners through a secure, internet-based online voting system (“electronic voting”). The Board of Directors can adopt rules and regulations concerning the use of acceptable, verifiable means of technology, including electronic means for Owner notice, voting, signatures, consents and approvals. A verifiable electronic signature satisfies any requirements for signatures on documents. If an Owner either does not have the capability or desire to conduct business electronically, the Association shall make reasonable accommodation, at its expense, for the person to conduct business without the use of electronic or other similar means.

Section 3.6. Conduct of Annual Meeting. The Chair of the annual meeting shall be the President of the Association. Business will be conducted in the following order:

(1) Call to Order & Establishment of a Quorum.

(2) Reading of Minutes. The Secretary shall read the minutes of the last annual meeting and the minutes of any regular or special meetings of the Members held subsequent thereto, unless such reading is waived by a Majority of the Vote as defined in Section 3.5(e) above.

(3) Reports of Officers.

(4) Reports of Committees.

(5) Treasurer’s Report. The Treasurer shall report to the Members concerning the financial condition of the Association and answer relevant questions of the Members concerning the Common Expenses and financial report for the year-to-date and the proposed budget for the following year.

(6) Budget. The proposed budget for the following year shall be presented to the Members for approval or amendment, as more fully described in the Declaration.

(7) Election of Board of Directors. Nominations for the Board of Directors may be made by a Member from those persons eligible to serve. Such nominations must be in writing and presented to the Secretary of the Association at least ten (10) days prior to the annual meeting. Voting for the Board of Directors will be by paper ballot. However, written balloting may be waived by a Majority of the Vote (as defined in Section 3.5(e) above) and voting may be conducted by a voice vote or show of hands in circumstances where the number of nominees does not exceed the number of Board positions (i.e., two nominations for two open positions). The ballot shall contain the name of each person nominated to serve as a Board member. Each Member may cast the total number of votes to which he or she is entitled for as many nominees as are to be elected; however, no Member shall be entitled to accumulate his or her votes. Those persons receiving the highest number of votes shall be elected.

(8) Other Business. Other business may be brought before the meeting only upon a written request submitted to the Secretary of the Association at least ten (10)

days prior to the date of the meeting; provided, however, that such written request may be waived at the meeting if agreed by a Majority of the Vote as defined in Section 3.5(e) above.

(9) Adjournment. Upon completion of all business before the Association, the President, upon the motion of any Member, may adjourn the meeting. Upon proper Motion and approval of a Majority of the Vote, all annual and special meetings may be adjourned to a later date pursuant to the Nonprofit Act.

Section 3.7. Conduct of Special Meeting. The President of the Association shall act as Chair of any special meetings of the Association. The Chair shall call the meeting to order at the duly designated time and the only business to be considered at such meeting shall be in consideration of the matters for which such meeting was called, as set forth in the notice of such special meeting.

Section 3.8. Action by Written Ballots. In lieu of any annual or special meeting of the Owners, written, "mail-in" ballots may be utilized in the manner prescribed in the Nonprofit Act or the HOA Act. To be valid, the Association must deliver a written ballot to every Owner entitled to vote on the matter. The written ballot must set forth each proposed action and provide an opportunity for the Owner to vote for or against each proposed action. Approval by written ballot is only valid if the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing such action, and the number of approvals equals or exceeds the number of votes required to approve the matter at a meeting. A request for votes by written ballot must indicate the number of responses needed to meet the quorum requirements, state the percentage of approvals necessary to approve each matter, other than the election of directors, and specify the time by which a ballot must be received by the Association to be counted.

Section 3.9. Means of Communication. To avoid the costs of paper, postage and handling that would otherwise be incurred when distributing documents or information to Owners by regular mail, and also to be more efficient in transmitting information that Owners can receive even when out of town, the Association will, to the extent possible, make Association matters available online through the Association's website (if any) and/or via email or similar means, including but not limited to:

- (A) Notices of Annual or Special Meetings
- (B) Proxies and Ballots
- (C) Annual Budgets
- (D) Nominees for the Board of Directors for an upcoming election
- (E) List of current members of the Board of Directors
- (F) Recorded copy of the Declaration and all amendments thereto
- (G) These By-Laws and the Articles of Incorporation and all amendments thereto
- (H) Architectural or Design Guidelines, if any
- (I) Architectural Control Request for Change form
- (J) Rules and Regulations adopted by the Board of Directors
- (K) Name of, and contact information for, the Association's property management company, if any
- (L) Invoices, statements or coupon booklets for payment of Assessments
- (M) Voting through a secure website or equivalent
- (N) Payment of Assessments through a secure website or equivalent

For items listed above that the Association could email, the Owner must waive the right to receive the same by regular mail and agree to receive the same by email in the manner described in Section 3.4 above.

Section 3.10. Failure to Reach Quorum. As is set forth in the HOA Act and Nonprofit Act, the failure to achieve a quorum at a meeting does not exempt any Owner from, or create an affirmative defense for, any Owner with respect to: (1) the Owner's obligations under the Declaration, the Plat Covenants, the Articles of Incorporation or these By-Laws, or (2) the Owner's obligations to otherwise abide by the provisions of the Declaration, the Plat Covenants, the Articles of Incorporation and these By-Laws, including but not limited to the payment of assessments. If a valid election cannot be held due to a failure to reach quorum at the annual meeting, the Directors then in office shall continue to serve as Directors until such time as (1) they resign from office, or (2) their replacements are duly elected and qualified. Alternatively, if a quorum is not present at an annual meeting, or if a sufficient number of candidates cannot be found to fill all open Board vacancies at the annual meeting, then the remaining members of the Board of Directors may fill any directorship positions open for election at the annual meeting in the same fashion as they would fill a vacancy under the terms of these By-Laws.

ARTICLE 4

BOARD OF DIRECTORS

Section 4.1. Board of Directors. The affairs of the Association shall be governed and managed by the Board of Directors (herein sometimes collectively called "Board" and individually called "Directors"). The Board of Directors shall be composed of seven (7) who each own at least one (1) Lot and who are in Good Standing. A Director must also maintain his or her primary residence within the Neighborhood.

Section 4.2. 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 Lot may be represented on the Board of Directors by more than one person at a time.

In addition, and in a display of honesty and integrity to the members of the community, all persons elected to serve as Director must execute, or sign, the Statement of Conduct adopted by the Board of Directors and attached to these By-Laws and marked as "Addendum 1", to govern the conduct and activities of Board members; and any person elected to serve on the Board of Directors who refuses to sign the Statement of Conduct shall not be eligible to serve as Director.

Section 4.3. Term of Office and Vacancy. Members of the Board of Directors shall be elected at each annual meeting of the Association. Each Director shall serve a term of two (2) years commencing at the immediate conclusion of the annual meeting. The terms shall be staggered such that three (3) Directors shall be elected in even numbered years, and four (4) elected in odd numbered years. Any vacancy occurring in the Board caused by a death, resignation, or otherwise other than a vacancy created by removal or an increase in the number of Directors, shall be filled until the next annual meeting of the Members through a vote of a majority of the remaining Directors. At the first annual meeting of the Members following any such vacancy, the Owners shall elect a Director to serve

for the balance of the term of the Director in respect to whom there has been a vacancy. Despite the expiration of a Director's term, the Director continues to serve until a successor is appointed or elected and qualified. A Director may serve any number of consecutive terms. Once elected at the Annual Meeting, the terms start January 1 of the next year.

Section 4.4. Removal of Directors. One or more Directors may be removed by the Owners with or without cause if the number of votes cast to remove would be enough to elect the Director(s) at a meeting to elect Directors. One or more Directors may be so removed by the Owners only at a meeting called for the purpose of removing the Director(s). The meeting notice must state that the purpose of the meeting is for voting upon the removal of the Director(s). In such case, his or their successor(s) shall be elected at the same meeting from eligible Owners nominated at the meeting to serve for the remainder of the term(s) of the removed Director(s).

In addition, a Director may also be removed "for cause" by a two-thirds (2/3) vote of the remaining Directors. For purposes of this provision, an act that constitutes "for cause" includes, but is not limited to: (a) failing to attend three (3) or more consecutive Board meetings; (b) becoming ineligible to serve on the Board pursuant to any terms set forth in the Declaration, Articles or these By-Laws; (c) acts of fraud, theft, deception, or criminal behavior; (d) breach or disclosure of confidential Board information or discussions to a person not on the Board; (e) failure to conform or follow the Director's Statement of Conduct; (f) or any other actions not authorized by the Board which hinder or bypass the authority of the Board to act as a whole. Determination of whether "for cause" has been sufficiently established to justify removal of a Director is left to the sole discretion of the remaining Directors.

Section 4.5. Duties of the Board of Directors. The Board of Directors shall perform or cause to be performed, when and to the extent deemed necessary or appropriate in the Board's business judgment, the following:

- (a) Protection, repair and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of the Owners; 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, removal of garbage and waste if not provided by the municipality, and snow removal from the Common Areas;
- (c) Landscaping, painting, decorating, and furnishing of the Common Areas;
- (d) Assessment and collection from the Owners of the Owners' pro-rata share of the Common Expenses;
- (e) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time the notice of annual meeting is mailed or delivered;

(f) After the close of each calendar year, preparing and delivering to the Owners a full accounting of all receipts and expenses incurred during the prior year;

(g) Keeping a current, accurate, and detailed record of receipts and expenditures affecting the Common Areas, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner according to the terms of Section 7.1 below;

(h) Procuring and maintaining in force all insurance coverage required by the Declaration;

(i) Performing such other duties as may be reasonably inferred from the provisions of the Declaration.

Section 4.6. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonably necessary or appropriate to accomplish the performance of its duties. These powers include, but are not limited to, the power:

(a) To employ a reputable and recognized professional managing agent or real estate management company (either being hereinafter referred to as "Managing Agent") to assist the Board in performing its duties;

(b) To enter into contracts on behalf of the Association, subject to the limitations and requirements contained within the HOA Act, to purchase for the benefit of the Owners such equipment, materials, labor, and services as may be necessary in the judgment of the Board of Directors;

(c) To procure for the benefit of the Owners fire and extended coverage insurance covering the improvements on the Common Areas to the full insurable value thereof, to procure public liability and property damage insurance and worker's compensation insurance, if necessary, and to procure all such other insurance as is required or permitted under the Declaration, for the benefit of the Owners and the Association;

(d) To employ legal counsel, architects, engineers, 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;

(e) 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;

(f) To include the costs of all of the above and foregoing as Common Expenses of the Association and to pay all of such costs therefrom;

(g) To open and maintain a bank account or accounts in the name of the Association and to designate the signatories thereto;

(h) To adopt, revise, amend, and alter from time to time reasonable rules and regulations with respect to use, occupancy, operation, and enjoyment of the subdivision, including the Lots and the Common Areas, provided that the Board shall give advance written notice to the Owners of such rules and any revision, amendment, or alteration thereof. All such rules and regulations shall be binding and enforceable upon each and every Lot and Owner, including all occupants, guests and invitees of any Lot or Owner, in the subdivision. Enforcement of such rules, regulations, policies and guidelines shall be subject to the remedies set forth in the Declaration.

Section 4.7. Limitation on Board Action. The authority of the Board to enter into contracts shall be limited to contracts involving a total expenditure no more than an amount equal to ten percent (10%) of the Association's budget then in effect 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 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. However, specific items within the budget need not be approved separately by the Owners at the annual meeting. The Board may also reallocate funds to items in the budget so long as the total budgeted funds are not exceeded and by doing so, the total budget will not be increased; and; 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 4.8. Compensation. No Director or Officer shall receive any compensation for his or her services as such except to such extent as may be expressly authorized by the Owners of a majority of the total number of Lots. The Managing Agent shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 4.9. Meetings and Notice. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of Directors. No written or verbal notice need be given to Directors for regularly scheduled Board meetings of which the Directors are already aware. For all other Board meetings, the Secretary shall give notice of such meetings of the Board to each Director personally or by United States mail at least five (5) days prior to the date of such meetings. Special meetings of the Board may be called by the President or any two (2) members of the Board. The person or persons calling such meeting shall give written notice thereof to the Secretary, who shall either personally or by mail and at least three (3) days prior to the date of such special meeting, give notice to the Board members. The notice of the meeting shall contain a statement of the purpose for which the meeting is called. Such meeting shall be held at such place as shall be designated in the notice. To the extent provided in the Nonprofit Act, a Director may conduct or

participate in a regular or special meeting of the Board of Directors through the use of conference telephone or any means of communication (such as Zoom or Go To Meeting) by which all Directors participating may simultaneously hear each other during the meeting. A Director participating in a meeting by this means is considered to be present in person at the meeting.

In lieu of written notices from the Secretary sent pursuant to the above paragraph, a Director may elect to receive notices of Board meetings by email. Any Director choosing email shall be deemed to have waived the right to receive notices from the Association by U.S. Mail or personal delivery. However, any such Director shall have the right at any time to withdraw his or her election to receive notice by email and shall thereafter be sent notices by the Secretary pursuant to the above paragraph.

Section 4.10. Open Board Meetings. As and to the extent required by the HOA Act or any other applicable law, meetings of the Board of Directors shall be open to attendance by the homeowner members of the Association. The Board may meet in private "executive sessions" to discuss owner delinquencies, contract negotiations (i.e., bids), pending and current litigation with legal counsel, and legally confidential employment matters. The Board may adopt rules, regulations and procedures regarding administration of such meetings, including regulation of matters such as Owner participation, time limits for speaking, scheduling, agendas, and other administrative issues consistent with Indiana law, the Declaration and these By-Laws. It is recognized and understood that there may, from time to time, be disagreements with regard to certain issues. Notwithstanding such disagreements, Owners agree to conduct themselves at meetings in an appropriate, reasonable and adult-like fashion, and to abide by all rules and regulations governing administration of meetings as adopted by the Board. In the event that an Owner is repeatedly disruptive despite multiple warnings, makes threats of physical harm, commits an illegal or violent act, or otherwise acts in a threatening, violent, hostile, or unduly aggressive fashion, said Owner may be immediately removed from the meeting. In the event that the same Owner repeatedly acts in a hostile, threatening or violent manner at meetings, or is removed from two (2) consecutive meetings, said Owner may have his or her rights to attend Board and membership meetings temporarily suspended at the discretion of the Board. The duration of such suspension shall be determined by the Board, factoring in the egregiousness of the Owner's conduct and the potential threat to the health, safety and welfare of other Owners.

Section 4.11. Waiver of Notice. Before or after any meeting of the Board, any Director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice. The presence of any Director at a meeting shall, as to such Director, constitute a waiver of notice of the time, place, and purpose thereof. If all Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.12. Quorum. At all meetings of the Board, unless the Nonprofit Act, the HOA Act, or these By-Laws provide otherwise, a majority of the Directors shall constitute a quorum for the transaction of business and the votes of the majority of the Directors present at a meeting at which a quorum is present shall be the decision of the Board.

Section 4.13. Bond. The Board of Directors may require the Managing Agent, Treasurer 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 bond shall be a Common Expense.

Section 4.14. Informal Action by Directors. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if prior to such action a written consent to such action is signed by all members of the Board and such written consent is filed with the minutes of proceedings of the Board or committee.

Section 4.15. Standards of Conduct and Liability of Directors and Officers. The standard and duty of conduct for and the standard or requirements for liability of the Directors and Officers of the Association shall be as set forth in the Nonprofit Act and the HOA Act.

ARTICLE 5

OFFICERS

Section 5.1. Officers of the Association. The principal officers of the Association shall be the President, Vice-President, Secretary and Treasurer, all of whom shall be elected by the Board. The Directors may appoint an Assistant Treasurer and an Assistant Secretary and such other officers as in their judgment may be necessary. Any two or more offices may be held by the same person, except that the same person shall not perform the duties of the President and Secretary.

Section 5.2. Election of Officers. The Board shall annually elect the officers of the Association at the Board's first meeting following each election thereof. Each officer shall hold office for one (1) year or until his or her successor shall have been duly elected and qualified, unless earlier removed by the Board of Directors. Upon recommendation of a majority of all members of the Board or upon an affirmative vote of the Owners of a majority of the total number of Lots, any officer may be removed either with or without cause and his or her successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose. A Director removed from a particular office shall continue to serve on the Board of Directors and may be reappointed to a different office or may serve on the Board without an officer designation.

Section 5.3. The President. The President shall be elected from among the Directors and shall be the chief executive officer of the Association. The President shall preside at all meetings of the Association and of the Board, shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of a nonprofit corporation organized under the laws of Indiana, including, but not limited to, the power to appoint committees from among the Owners as he or she may deem necessary to assist in the affairs of the Association and to perform such other duties as the Board may from time to time prescribe.

Section 5.4. The Vice-President. The Vice-President shall be elected from among the Directors and shall perform all duties incumbent upon the President during the absence or disability of the President. The Vice-President shall also perform such other duties as these By-Laws may prescribe or as shall, from time to time, be imposed upon him or her by the Board or by the President.

Section 5.5. The Secretary. The Secretary shall be elected from among the Owners or Directors. The Secretary shall attend all meetings of the Association and of the Board and shall keep or cause to

be kept a true and complete record of proceedings of such meetings, shall authenticate the Association's records, shall perform all other duties incident to the office of the Secretary, and such other duties as from time to time may be prescribed by the Board. The Secretary shall specifically see that all notices of the Association or the Board are duly given, mailed or delivered, in accordance with the provisions of these By-Laws.

Section 5.6. The Treasurer. The Board shall elect from among the Owners or Directors a Treasurer who shall maintain a correct and complete record of account showing accurately at all times the financial condition of the Association and such other duties incident to the office of Treasurer. The Treasurer shall be legal custodian of all monies, notes, securities, and other valuables which may from time to time come into possession of the Association. He or she shall immediately deposit all funds of the Association coming into his or her hands in some reliable bank or other depository to be designated by the Board and shall keep such bank account in the name and for the exclusive benefit of the Association. The Treasurer may permit the Managing Agent, if any, to handle and account for monies and other assets of the Association to the extent appropriate as part of its duties.

Section 5.7. Assistant Officers. The Board of Directors may from time to time designate and elect from among the Owners an Assistant Secretary and Assistant Treasurer, who shall have such powers and duties as the Officers whom they are elected to assist and shall delegate to them such other powers and duties as these By-Laws or the Board of Directors may prescribe. However, such Assistant Officers (if any) shall not have a vote on any matter coming before the Board for a decision. Thus, they shall have a "voice but not a vote".

ARTICLE 6

INDEMNIFICATION

Section 6.1. Indemnification of Directors and Officers. To the extent not inconsistent with the laws of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director or officer of the Association shall be indemnified by the Association to the same and fullest extent that directors of nonprofit corporations are indemnified under the Nonprofit Act.

ARTICLE 7

RECORDS OF THE ASSOCIATION

Section 7.1. In General. Current copies of the Declaration, the Articles, the By-Laws, rules and regulations, financial documents and other corporate documents concerning the Neighborhood or the Association and its operation required to be kept and made available for inspection shall be available for inspection by any member or other properly designated party at the principal office of the Association during reasonable business hours or under other reasonable circumstances, where copies of the same may be purchased at reasonable cost. The Association shall keep detailed books of account showing all expenditures and receipt of administration which shall specify the maintenance and repair expenses of the Common Areas, all easements, and any other expenses incurred by or on behalf of the Association and the members.

The accounts, books, records, financial statements, and other papers of the Association shall be open for inspection by any member upon written request submitted to the Board at least five (5) days in advance of the proposed inspection date, and said inspection is to be made during reasonable business hours or under other reasonable circumstances. However, pursuant to the HOA Act, the Association is not required to make available for inspection to a member any records that were created more than two (2) years before the request (or for such different timeframe set forth in the HOA Act as it may be amended in the future). Any holder, insurer, or guarantor of a first mortgage on a Lot shall be entitled upon written request to receive a financial statement for the immediately preceding fiscal year.

The Association reserves the right to require any member desiring to inspect the books, records, financial statements, and other papers of the Association to comply with the requirements set forth under the Nonprofit Act and the HOA Act, and any amendments or re-codification subsequently adopted thereto.

The Association reserves the right to deny any request by a member for inspection of the Association's roster of members, including mailing addresses of members, which the Board of Directors determines: (a) was not made in good faith or for a proper purpose; (b) the member fails to describe with reasonable particularity the purpose of the inspection; (c) the purpose is not directly related to the operation of the Association; or (d) was made to solicit money or property, or for a commercial purpose, or for marketing or advertising purposes.

ARTICLE 8

MISCELLANEOUS

Section 8.1. Fiscal Year. The fiscal year of the Association shall be the calendar year.

Section 8.2. Personal Interests. No Member of the Association shall have or receive any earnings from the Association; provided, however, that a Member who is an officer, director, employee, or agent of the Association may be reimbursed for expenses incurred on the Association's behalf.

Section 8.3. Contracts, Checks, Notes, Etc. All contracts and agreements entered into by the Association shall be signed by the President, unless otherwise directed by the Board of Directors. All checks and orders for the payment of money shall be signed by the Treasurer, unless otherwise directed by the Board of Directors.

Section 8.4. Committees. The Board of Directors shall appoint the committees provided for in the Declaration. In addition, the Board of Directors may appoint various other committees to carry out the purposes of the Association. Members of such committees may, but need not, be members of the Board of Directors. Committee members may be removed at any time and for any reason. The Board will determine the terms of the Committee members. In the absence of any specifically set term, a Committee member's term will be indefinite.

ARTICLE 9

GRIEVANCE RESOLUTION PROCEDURES

Section 9.1. Grievance Resolution Procedures. Effective July 1, 2015, Indiana enacted a statute that requires many disputes involving an Indiana homeowners association to be addressed through a grievance resolution procedure before a lawsuit can be filed in court. Currently, that statute is found in the HOA Act at Indiana Code 32-25.5-5. To comply with the spirit and intent of that statute, all Members of the Association, the Board of Directors, the Officers of the Association, and committee members agree to encourage the amicable resolution of disputes involving the Neighborhood and to avoid the emotional and financial costs of litigation if at all possible. They all are deemed to covenant and agree that the statutorily mandated grievance resolution procedures shall apply to any claim covered by the Indiana statute, subject to the claims that the statute lists as being exempt from those required procedures. (For example, one of the exempt claims is a claim by the Association for unpaid Assessments and any action by the Association to collect Assessments.)

ARTICLE 10

AMENDMENT TO BY-LAWS

Section 10.1. Amendment. These By-Laws may be amended by a Majority of the Vote as defined in Section 3.5(e) hereof in a duly constituted meeting called for such purpose, except as prohibited by any provision of the Declaration, the Nonprofit Act, the HOA Act, or these By-Laws, as the same may be amended from time to time.

This instrument prepared by:
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ADDENDUM #1
To the By-Laws of
Kensington Grove Homeowners Association, Inc.

Board Member Statement of Conduct

Congratulations on your election or appointment to the Board of Directors for the Kensington Grove Homeowners Association, Inc. The purpose of this letter is to acquaint you with the standard of conduct that is expected of community association Board members in Indiana. The law imposes certain legal obligations on all Board members. Failure to fulfill these obligations could lead to a lawsuit against the Association, the Board, and even you personally. Chief among these obligations is what is called a "fiduciary duty" to the Association and its members. This means that you must perform your duties as a Board member in good faith and with the degree of care that an ordinarily prudent person would use under similar circumstances, being at all times loyal to the Association and its best interests. But in practice it gets a little more complicated than that. While it is impossible to review every possible situation you might face, here are some guidelines to follow. As a Board member, you must:

1. Act in the Association's best interests at all times. Your decisions must be based on what is best for the Association as a whole. Making decisions or taking actions that put the interests of yourself, your family, your friends, or your supporters above those of the Association or its members as a whole is a breach of your fiduciary duty to the Association.

2. Act with care, including seeking advice from experts when appropriate. When making decisions or taking actions, you must exercise the degree of care that an ordinarily prudent person would under the circumstances. Among other things, this means that if, for example, the Board must decide an issue that no one on the Board is an expert on, the Board should consult an expert. This doesn't mean you should feel paralyzed to make a decision, but it does mean that you should exercise care in making certain decisions regarding issues for which the average person would find it helpful or necessary to seek some input or advice from an expert or advisor before making a final decision, such as legal, accounting, construction or particular maintenance (such as fertilization chemicals) issues or matters.

3. Act within the scope of your authority. Your authority is defined in the Association's governing documents and by applicable Indiana and local law. It is important that you become familiar with the provisions of the Declaration, By-Laws and other governing documents of the community; and that you understand the scope of your authority in those documents and not exceed it. If a Board action violates the duly adopted By-Laws, Declaration, or other governing documents, or state or local laws, the Board may have breached its fiduciary duty and the action may have to be invalidated. Examples of this would be failing to comply with procedural requirements for community meetings and elections or failing to comply with the restrictions or requirements in the Declaration. Therefore, it is very important that Board members always act to make reasonable decisions that are consistent with Indiana and local laws, the Declaration, the By-Laws, and the other governing documents of the community. Likewise, Board members should not act unilaterally or contrary to Board decisions, such as signing contracts, approving architectural requests, or making other promises or agreements with vendors or other Owners without Board approval.

4. Act in good faith. Board members' motives at all times must be to further the legitimate best interests of the Association. If Board members make decisions based on favoritism, discrimination, or malice - or make arbitrary decisions -they are breaching their fiduciary duty. This does not mean that the Board cannot create a rule that affects some members differently from the way it affects others, such as a clean-up-after-your-pets rule or a parking rule. It just means that the decision to create the rule must be based on Board members' honest judgment of what is best for the Association as a whole. This same guideline applies to enforcement of the covenants as well, meaning a Board member should not seek to enforce the restrictions of the community selectively or in a personal or self-serving fashion.

5. Act professionally. Being a member of the Board requires you to behave and express yourself in a professional and businesslike manner. Remember that you are a representative of the owners, and your behavior is a reflection on everyone you represent. Obviously, inappropriate language and personal attacks against other Board members, owners, managers, guests, vendors or contractors are not consistent with the best interests of the Association. Also, Board members should attend meetings regularly. You were chosen to sit on the Board because of your experience, education and talents, and not attending meetings prevents the Board from using your valuable input to make decisions. Additionally, if a Board member has any perceived, potential or actual conflict of interest regarding any aspect of the business operations of the Association, this information must be disclosed to the Board immediately. An example of this would be a situation where a Board member, or a relative or close friend, is directly involved with any vendor being used by the Association, such as the lawn maintenance company. This conflict of interest disclosure is required under the law, and failure to make a proper disclosure could open the Board member up to personal liability surrounding the conflict.

The great thing about serving on a Board is that each member is asked to bring his or her experience, knowledge and talents to the table and use them collectively for the benefit of the entire community. This does not mean every member needs to agree or have the same opinion of how the Association should handle a particular matter, but it does mean that each member should respect other points of view, seek to understand those differences, and ultimately follow the decision of the entire Board, even if that decision is not in agreement with the individual Director's views.

6. Act to preserve confidentiality. Remember, each Board member may be entrusted with information that is private or personal in nature and should not be passed along to others who are not on the Board. (That includes spouses, family members, and others in the Board member's household.) Board members should always maintain the confidentiality of all legal, contractual, personnel, vendor and management matters involving the Association. Board members should also maintain the confidentiality of the personal lives of other Board members, Association members, residents and management staff. Failing to keep confidential information private creates an enormous amount of potential liability for the Association, the members, and each individual Board member. This does not mean that the Board should not discuss any Association matters with the residents, because you obviously need to let the members know what the Board is doing on their behalf. However, a safe approach to take on this issue is to not discuss specifics of confidential matters, but merely update the members in general terms. An example would be to tell members that there is a pending lawsuit involving an issue, and that the Association's legal counsel is providing guidance to the Board as it makes decisions during the litigation process, but not to disclose the terms of specific settlement offers or arguments being made by either side in the issue.

7. Act as a Steward for the Community. Board members have been elected to lead the community through the Association. You have been entrusted to manage and make decisions that will impact the entire neighborhood. As a representative of the people, you should hold yourself up as an example to the other residents of the community by complying and following the provisions of the governing documents for the community. Board members should also not defame, slander, harass, threaten, or otherwise attempt to intimidate or ridicule any other Board member, Association member, resident, or management staff member. Any action by a Board member that fails to fall within this good steward guideline is acting outside the scope of the Board member's authority, and as such, may be opening himself or herself up to potential individual liability or removal from the Board.

8. Avoid the following six common mistakes. You will have to use your best judgment in determining what your fiduciary duty requires of you in any specific situation. But there are common mistakes that you should avoid:

- Don't take personal advantage of business opportunities that should benefit the entire community.
- Don't do business with the Association unless you disclose that fact to the other Board members and get the appropriate approval to do so.
- Don't give preferential treatment to friends and supporters, or expect it for yourself from others.
- Don't accept gifts from vendors or others doing business- or seeking to do business -with the Association.
- Don't make decisions on behalf of the Association based solely upon your personal goals or views, but make them based upon the desire of the residents and the benefit to the neighborhood as a whole. Dictators seldom have loyal and happy followers.
- Don't reveal confidential information.

The Board has decided to adopt this statement of conduct to serve as a source of guidance for all Board members and to be a reminder to each member of his or her responsibilities as a Board member and a representative of the owners in Kensington Grove. Each Board member should always keep in mind that he or she has been entrusted to act as a representative of the community by their neighbors. Therefore, every member of the Board is asked to sign this statement of conduct as your affirmation that you have read, understand and agree to follow these simple rules of conduct and ethical behavior. Your refusal to adopt and follow these simple rules of conduct shall act as a disqualification to serve on the Board of Directors.

You have undertaken an important job in our community, and we appreciate your service!

Thank you.

Board Member's Agreement to Abide by the Statement of Conduct

I hereby state that I have read this Statement of Conduct and understand these rules and what is expected of me as a Board member of the Association. I also state by my signature below that I agree to follow these rules of conduct, and that I understand my failure to abide by these rules of conduct may result in my removal from the Board of Directors of the Kensington Grove Homeowners Association, Inc.

Date: _____

Signature of Director

Printed Name of Director

[All Directors serving on the Association's Board of Directors must sign a Statement of Conduct, which shall be maintained in the Association's records. This Statement of Conduct shall remain valid and in effect through the end of the Director's current term. If the Director is re-elected for a new term upon the expiration of his/her current term, then a new Statement of Conduct shall be signed by the Director for their new term of office.]