

provided herein, the budget and annual assessments in effect for the then current year shall be increased in proportion to the percentage increase, if any, for the then current year, in the Consumer Price Index (all Urban Consumers, United States City Average, All Items 1967-69=100), or its successor index, and such increased budget shall be implemented for the succeeding year, until a new budget shall have been prepared as provided above. If any budget at any time proves inadequate for any reason, then the Board may call a meeting of the Association for the approval of a special assessment as provided in Section 11.5 hereof.

Section 11.5. Special Assessments.

(a) Entire Membership. The Association may levy Special Assessments from time to time, provided any such assessment receives the affirmative vote or written consent of Voting Members or their alternates representing a majority of the total Class A votes in the Association and the affirmative vote or written consent of the Class B Member, if such exists. Special Assessments pursuant to this paragraph shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved, if the Board so determines.

(b) Less Than All Members. The Association may levy a special Assessment against any Member individually and against such Member's Lot to reimburse the Association for costs incurred in bringing a Member and his Lot into compliance with the provisions of the Declaration, and amendments thereto, the Articles, the By-Laws, or the Association rules, which Special Assessment may be levied upon the vote of the Board after notice to the Member and an opportunity for a hearing. The Association may also levy a Special Assessment against the Lots in any Neighborhood to reimburse the Association for costs incurred for a Neighborhood's violation of any rules and regulations or a Neighborhood's failure to maintain property that it is required to maintain, which Special Assessment may be levied upon the vote of the Board after notice to the senior officer of the Neighborhood and an opportunity for a hearing.

Section 11.6. Lien for Assessments. Upon recording of a notice of lien on any Lot, there shall exist a perfected lien for unpaid assessments of priority and superior to all other liens, except (1) all taxes, bonds, assessments, and other levies which by law would be superior thereto, and (2) the lien or charge of any first Mortgage record (meaning any recorded Mortgage with first priority over other Mortgages) made in good faith and for value.

Such lien, when delinquent, may be enforced by suit, judgement, and foreclosure.

The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period in which a Lot is owned by the Association following

foreclosure: (a) no right to vote shall be exercised on its behalf; (b) no assessment shall be levied on it; and (c) each other Lot shall be charged, in addition to its usual assessment, its equal pro rata share of the assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Common Expenses and attorney's fees shall be maintainable without foreclosing or waiving the lien securing the same.

Section 11.7. Reserve Budget and Capital Contribution. The Board of Directors shall annually prepare a reserve budget to take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall set the required capital contribution in an amount sufficient to permit meeting the projected needs of the Association, as shown on the budget, with respect both to amount and timing by annual assessments over the period of the budget. The capital contribution required, if any, shall be fixed by the Board and included within and distributed with the applicable budget and notice of assessments, as provided in Sections 11.3 and 11.4 of this Article.

Section 11.8. Date of Commencement of Annual Assessments. The Annual Assessments provided for herein shall commence as to each Lot on the day on which such Lot is conveyed to a person other than Declarant and shall be due and payable in such manner and on such schedule as the Board of Directors may provide. Annual Assessments and any outstanding Special Assessments shall be adjusted on a pro rata basis for such Lot according to the number of months then remaining in the then fiscal year of the Association and the number of days then remaining in the month in which such Lot is first conveyed. Annual and Special Assessments for Lots in portions of the Additional Property hereafter submitted to the terms of this Declaration shall commence with respect to each such Lot on the later of (i) the day on which such Lot is conveyed to a person other than Declarant or (ii) the day of the recording of the amendment to the Declaration so submitting such parcels and Annual and Special Assessment for each such Lot shall be adjusted according to the number of months then remaining in the fiscal year of the Association and the number of days then remaining in the month in which such assessments commence. Anything contained herein to the contrary notwithstanding, Declarant shall not be responsible for the payment of Annual or Special Assessments on Lots which it or its affiliates own and which do not contain occupied residences (except as hereinafter provided), provided that Declarant covenants and agrees to pay Annual and Special Assessments for each Lot owned by Declarant or an affiliate and containing occupied residences. Upon Declarant no longer having the authority to appoint Directors or officers of the Association, Declarant shall be obligated only to pay assessments on Lots owned by Declarant.

Section 11.9. Subordination of the Lien to First Mortgages. The lien of assessments, including interest, late charges (subject to the limitations of Indiana law), and costs (if any)

reasonable attorney's fees) provided for herein, shall be subordinate to the lien of any first Mortgage upon any Lot. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to judicial or non-judicial foreclosure of a first Mortgage shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from lien rights for any assessments thereafter becoming due.

Article XII

Architectural Standards

Section 12.1. Purpose. In order to preserve the natural setting and beauty of the Development, to establish and preserve a harmonious and aesthetically pleasing design for the Development, and to protect and promote the value of the Property, the Lots and all improvements located therein or thereon shall be subject to the restrictions set forth in Articles XII and XIII. Every grantee of any interest in the Property, by acceptance of a deed or other conveyance of such interest, agrees to be bound by the provisions of Articles XII and XIII.

Nothing 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 appropriate committee has been obtained pursuant to Sections 12.2 and 12.3 below. The Board of Directors may establish reasonable fees to be charged by the committees on behalf of the Association for reviewing of applications hereunder and may require such fees to be paid in full prior to review of any application.

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

The Board of Directors shall have the authority and standing, on behalf of the Association, to enforce in courts of competent jurisdiction decisions of the committees established in Sections 12.2 and 12.3 of this Article XII. This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration or subject to annexation to this Declaration.

The committees established in Sections 12.2 and 12.3 of this Article XII may be merged by Declarant, in its sole discretion, during the Class B Control Period into one committee.

Section 12.2. New Construction Committee. The New Construction Committee (NCC) shall consist of at least three (3),

but no more than five (5), persons and shall have exclusive jurisdiction over all original construction on any portion of the Property. Until one hundred percent (100%) of the Property has been developed and conveyed to purchasers in the normal course of development and sale, the Declarant retains the right to appoint all members of the NCC, who 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 Declarant. Upon the expiration of such right, the Board of Directors shall appoint the members of the NCC who shall serve and may be removed at the discretion of the Board of Directors. The members of the NCC may include persons who are not Members of the Association. Members of the NCC may, or may not, be members of the Board of Directors and, if not members of the Board, may be compensated for serving as an NCC member and such costs shall be classified as a Common Expense.

The NCC shall prepare and, on behalf of the Board of Directors, shall promulgate design and development guidelines, variance rules and regulations, and application and review procedures. Copies shall be available from the New Construction Committee for review. The guidelines and procedures shall be those of the Association, and the NCC 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 upon all or any portion of the Property and such Owners, builders and developers shall conduct their operations strictly in accordance therewith. In the event that the NCC fails to approve or disapprove plans submitted to it, or to request additional information reasonably required, within twenty-one (21) days after submission of completed plans, and any additional information having been requested by the NCC, the plans shall be deemed approved.

Section 12.3. Architectural Standards Committee. The Board of Directors may establish an Architectural Standards Committee (ASC) to consist of at least three (3) and no more than five (5) persons, all of whom shall be appointed by and shall serve at the discretion of the Board of Directors. Members of the ASC may include persons who are not Members of the Association. Members of the ASC may or may not be members of the Board of Directors.

The regular term of office for each member shall be one year, coinciding with the fiscal year of the Association. Any member appointed by the Board may be removed with or without cause by the Board at any time by written notice to such appointee, and a successor or successors appointed to fill such vacancy shall serve the remainder of the term of the former member. The ASC shall elect a Chairman and Vice Chairman and he, or in his absence, the Vice Chairman, shall be presiding officer at its meetings. The ASC shall meet at least once in each calendar month, as well as upon call of the chairman, and all meetings shall be held at such places as may be designated by the chairman. Three (3) members shall constitute a quorum for the transaction of business, and the affirmative vote of a majority

of those present in person or by proxy at a meeting of the ASC shall constitute the action of the ASC on any matter before it. The ASC is authorized to retain the services of consulting architects, landscape architects, urban designers, engineers, inspectors, and/or attorneys in order to advise and assist the ASC in performing its functions set forth herein. Such costs associated with the use of consultants shall be considered a Common Expense. Each member of the ASC may be paid a stipend or honorarium as from time to time determined by the Board.

The ASC shall have exclusive jurisdiction over modifications, additions or alterations made on or to existing lots or structures comprising lots and the open space, if any, appurtenant thereto; provided, however, the ASC may delegate this authority to the appropriate board or committee of any Neighborhood Association subsequently created or subsequently subjected to this Declaration so long as the ASC has determined that such board or committee has in force review and enforcement procedures, and appropriate standards at least equal to those practices of the ASC. Such delegation may be revoked and jurisdiction reassumed by ASC at any time by written notice. Notwithstanding the above, the ASC shall not take any action or approve any plans inconsistent with the guidelines promulgated by the NCC, while NCC is in existence. The ASC shall promulgate detailed standards or procedures governing its areas of responsibility and practice, consistent with those of NCC. In addition thereto, the following shall apply: plans and specifications showing the nature, kind, shape, color, sizes, materials, and location of such modifications, additions, or alterations shall be submitted to the ASC for approval as to quality of workmanship and design and as to harmony of external design with existing structures and location in relation to surrounding, topography, and finish grade elevation. Nothing contained herein shall be construed to limit the right of an Owner to remodel the interior of his Dwelling, or to paint the interior of his Dwelling any color desired; provided, modifications or alterations to the interior of screened porches, patios and similar portions of a Dwelling visible from outside the Dwelling shall be subject to approval hereunder. In the event that the ASC fails to approve or to disapprove such plans or to request additional information within twenty-one (21) days after submission of completed plans, proposals, specifications or drawings and any additional information having been requested by the ASC, the plans shall be deemed approved.

Section 12.4. No Waiver of Future Approvals. The approval of either the NCC or ASC of any proposals or plans and specification 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 12.5. Variances. The NCC 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 regulations set forth by the NCC. Such variance 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 a recorded Plat, 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, or the terms of any financing shall not be considered a hardship warranting a variance.

Section 12.6. 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 NCC or ASC may be excluded by the Board from the Property without liability to any person, subject to the notice and hearing procedures contained in Article III, Section 3.22 of the By-Laws.

Section 12.7. Construction of Improvements. Dwellings may not be temporarily or permanently occupied until the exteriors thereof have been completed and a certificate of occupancy for such Dwelling has been issued. No temporary house, shack, tent, barn, or other outbuilding shall be permitted on any Lot at any time, except for temporary structures for social functions as may be permitted by rules and regulations promulgated by the Board, nor shall any stable, poultry house or yard, rabbit hut, or other similar yard structure be constructed or allowed to remain on any Lot.

Section 12.8. Responsibilities During Construction.

(a) Construction of a Dwelling on a Lot must be completed within nine (9) months from the date construction is commenced.

(b) When basement and/or foundation of Residence is constructed, stone shall be installed over the path of driveway and shall be level with curb at the lot line to avoid curb breakup.

(c) No track vehicles or heavy equipment vehicles shall be operated or unloaded on any street.

(d) During the construction period, the Lot shall be maintained in a clean and orderly manner at all times. All loose shingles, lumber, bricks, block, drywall, insulation, or other building material which can blow onto adjacent lots shall not be left lying around. Construction trash shall be contained in a trash fence and shall be removed from the Lot once per week or contained in a dump site provided by a trash disposal service which will empty the container as needed.

(e) The Lot Owner shall be responsible for removal of dirt, mud or debris or other foreign material of any kind which may be deposited upon the road or easements from construction on the Lot. If such deposits occur, then the Lot Owner shall make provisions to remove such deposits within five (5) days or the committee may remove such deposits and charge the Lot Owner.

(f) No outside toilets shall be permitted on any lot during construction without prior approval of the NCC.

(g) All utility services including, but not limited to, water, power, sanitary sewers, telephone or cable, to the lot shall be shown on the plot plan and said services shall not undermine the curbs or alter the subsurface or surface drainage system.

(h) Upon completion of construction, such Owner shall cause its contractors to immediately remove all equipment, tools, and construction material and debris from the Lot are on which such construction has been completed.

Section 12.9. Architectural Approval. To preserve the architectural and aesthetical appearance of the Development, no construction of improvements of any nature whatsoever shall be commenced or maintained by an Owner, other than Declarant, with respect to the construction or affecting the exterior appearance of any Dwelling or with respect to any other portion of the Property, including, without limitation, the construction or installation of sidewalks, driveways, parking lots, mail boxes, decks, patios, courtyards, swimming pools, tennis courts, greenhouses, playhouses, awnings, walls, fences, exterior lights, garages, guest or servants quarters, or other outbuildings, nor shall any exterior addition to or change or alteration therein be made (including, without limitation, painting or staining of any exterior surface), unless and until two (2) copies of the plans and specifications and related data (including, if required by the NCC or ASC, as the case may be, a survey showing the location of trees of six (6) inches in diameter at a height of four (4) feet and other significant vegetation on such Lot) showing the nature, color, type, shape, height, materials, and location of the same shall have been submitted to and approved in writing by the NCC or ASC as the case may be, as to the compliance of such plans and specification with such standards as may be published by the respective committees from time to time including the harmony of external design, location, and appearance in relation to surrounding structures and topography. One copy of such plans, specifications, and related data so submitted shall be retained in the records of the respective committee, and the other copy shall be returned to the Owner marked "approved", "approved as noted", or "disapproved".

The committees may establish a fee sufficient to cover the expense of reviewing plans and related data and to compensate any consulting architects, landscape architects, urban designer, inspectors, or attorneys retained in accordance with the terms hereof. Notwithstanding the foregoing, an Owner may make

interior improvements and alterations within his Dwelling that do not affect the exterior appearance, without the necessity of approval or review by the committees. The committees shall have the sole discretion to determine whether plans and specifications submitted for approval are acceptable to the Association. Following approval of any plans and specifications by the committees, representatives of the committees shall have the right during reasonable hours to enter upon and inspect any Lot, or other improvements with respect to which construction is underway to determine whether or not the plans and specifications therefor have been approved and are being complied with. In the event the committees shall determine that such plans and specification have not been approved or are not being complied with, the committees shall be entitled to enjoin further construction and to require the removal or correction of any work in place which does not comply with approved plans and specifications.

Section 12.10. Landscaping Approval. To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever shall be implemented and installed by an Owner other than Declarant, unless and until the plans therefore have been submitted to and approved in writing by the appropriate committee. The provisions of Section 12.9 hereof regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling. The landscaping plan for any Lots adjacent to golf courses located on the Golf Club property shall, in addition, be subject to the rights, easements, and approval of Club Owner set forth in Article III, Section 3.15 hereof. The landscaping plan for each Lot must be carried out and completed within thirty (30) days months after the completion of the Dwelling unless such deadline would fall between December 1 and April 1 in which event the landscaping plan for such Lot shall be completed no later than May 1.

Section 12.11. Approval Not a Guarantee. No approval of plans and specifications and no publication of standards shall be construed as representing or implying that such plans, specifications, or standards will, if followed, result in properly designed improvements. Such approvals and standards shall in no event be construed as representing or guaranteeing that any Dwelling or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the NCC or ASC shall be responsible or liable for any defects in any plans or specifications submitted, revised, or approved pursuant to the terms of this Article XII, nor loss or damages to any person arising out of the approval or disapproval of any plans or specifications, any loss or damage arising from the noncompliance of such plans and specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such plans and specifications.

Section 12.12. Building Restrictions. All Dwellings and other structures shall be constructed in compliance with any and all applicable state, county and municipal zoning and building restrictions. Prior to any such grading, clearing, construction of impervious surface, building, or other construction activity, the Owner of any Lot which is subject to such rules, regulations, guidelines or restriction shall make such filings, including, without limitation, the filing of a site plan with Hamilton County, Indiana, and obtain such authorizations and permits as are required thereunder, and further, shall receive the prior written approval of the appropriate committee (NCC or ASC). Any Owner that performs any grading, clearing, construction of impervious surface, or other construction activity in violation of the above or the rules, regulations, guidelines, or restrictions of the Town of Fishers, or otherwise violates the rules, regulations, guidelines, or restrictions of this Declaration, shall be liable to Declarant for any damages incurred by Declarant arising out of such violation and Declarant hereby expressly reserves the right to sue any such Owner for monetary damages and for specific performance of the above covenants and restrictions. In addition, the appropriate committee (NCC or ASC) is authorized to promulgate from time to time as part of the standards described in Sections 12.2 and 12.3 hereof additional restrictions applicable to the Development, including without limitation, restrictions relating to height of improvements above grade, roof pitch, and minimum square footage of living space in each Dwelling. No exterior portion of any building, structure or other improvement (excepting sidewalks and driveways) located on or with respect to any Lot shall be located other than as permitted by the applicable set-back line restrictions.

Article XIII

Use Restrictions

The Property shall be used only for residential, recreational, and related purposes (which may include, without limitation, offices for any property manager retained by the Association or business offices for the Declarant or the Association as may more particularly be set forth in this Declaration and amendments hereto). No trade or business of any kind, except as described below may be carried on. Any Supplemental Declaration or additional covenants imposed on the Property within any Neighborhood may impose stricter standards than those contained in this Article. The Association, acting through its Board of Directors, shall have standing and the power to enforce such standards.

The Association, acting through its Board of Directors, shall have authority to make and to enforce standards and restrictions governing the use of the Property, in addition to those contained herein, and to impose reasonable user fees for use of Common Area facilities. Such regulations and use restrictions shall be binding upon all Owners and occupants until

and unless overruled, cancelled or modified in a regular or special meeting of the Association by the vote of Voting Members representing a majority of the total Class B Member, so long as such membership shall exist.

Section 13.1. Use of Lots. Except as permitted by Section 13.28 hereof, each Lot shall be used for residential purposes only, and no trade or business of any kind may be carried therein. No more than one (1) Dwelling shall be located on any Lot. The use of a portion of a Dwelling as an office by an Owner, or his tenant shall not be considered to be a violation of this covenant if Owner is in compliance with Section 13.28 below.

Section 13.2. Exterior Appearance. No chain link fences shall be permitted within the Development, except with regard to maintenance areas within the Common Areas and wrought iron fences on the Golf Club property, tennis courts approved by the Architectural Standards Committee, and those fences erected by the Declarant. Further, no foil or other reflective material shall be used on any windows for sunscreen, blinds, shades, or other purpose nor shall any window-mounted heating or air conditioning units be permitted. Outside clotheslines or other outside facilities for drying or airing clothes are specifically prohibited and shall not be erected, placed, or maintained, nor shall any clothing, rugs, or other item be hung on any railing, fence, hedge, or wall. When not in use, all garage doors shall be kept closed.

Section 13.3. Parkway Trees. All Lots along designated streets shall require the installation and maintenance of Parkway Trees in accordance with rules and regulations hereafter set by the Declarant or the Association. Such rules shall specify the number of trees required based upon the size of the Lot, the species of the trees and the size of the required trees. It shall be the obligation of the Owner of each Lot to not only install and maintain such Parkway Trees but to replace the Parkway Trees if necessary. In the event an Owner fails to maintain or replace a Parkway Tree as required herein, the Association shall have the right to maintain and replace said tree and charge the cost of such to the Owner.

Section 13.4. Signs. No signs of any kind shall be erected within the Property, or permitted within any windows, without the written consent of the Board of Directors, except standard real estate "for sale" signs, entry and directional signs installed by Declarant and such signs as may be required by legal proceedings. No business signs, flags, banners or similar items advertising or providing directional information shall be erected by any Owner. If permission is granted to any Person to erect a sign, including name and address signs, within the Property, the Board reserves the right to erect signs as they, in their sole discretion, deem appropriate.

Section 13.3. Parking and Prohibited Vehicles.

(a) **Parking.** Vehicles shall be parked only in the garages or on the driveways, if any, serving the Lots or in appropriate spaces or designated areas in which parking may or may not be assigned and then subject to such reasonable rules and regulations as the Board of Directors, or any Neighborhood having concurrent jurisdiction over parking areas within the Neighborhood, may adopt. Garages shall be used for parking of vehicles and no other use or modification thereof shall be permitted which would reduce the number of vehicles which may be parked therein below the number for which the garage was originally designed. The Declarant and/or the Association may designate certain on-street parking areas for visitors or guests subject to reasonable rules.

No Owners or other occupants of any portion of the Development shall repair or restore any vehicles of any kind upon or within any Lot or within any portion of the Common Areas, except (i) within enclosed garages or workshops, or (ii) for emergency repairs, and then only to the extent necessary to enable the movement thereof to a proper repair facility.

(b) **Prohibited Vehicles.** Commercial vehicles, vehicles with commercial writing on their exteriors, vehicles primarily used or designed for commercial purpose, tractors, mobile homes, recreational vehicles, trucks weighing in excess of three-quarters of a ton, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft, and boat trailers shall be parked only in enclosed garages or areas, if any, designated by the Board or by the Neighborhood jurisdiction over parking areas within a particular Neighborhood. Stored vehicles and vehicles which are either obviously inoperable or do not have current operating licenses shall not be permitted on the Property 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 seven (7) consecutive days without the prior approval of the Board. Notwithstanding the foregoing, service and delivery vehicles may be parked in the Property during daylight hours for such period of time as is reasonable necessary to provide service or to make a delivery to a Lot or the Common Areas. Any vehicles parked in violation of this Section or parking rules promulgated by the Board may be towed in accordance with Article III, Section 3.22 of the By-Laws.

Section 13.6. Occupants Bound. All provisions of the Declaration, 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 Lot or Golf Club. Every Owner shall cause all occupants of his or her Lot to comply with the Declaration, 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 the Declaration, By-Laws and rules and regulations adopted pursuant thereto.

Section 13.7. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any portion of the Property, except that dogs, cats or other usual and common household pets not to exceed a total of four (4) may be permitted in a Lot, subject to rules and regulations adopted by the Association through its Board of Directors. However, those pets which are permitted by any Owner or occupant to roam free, or, in the sole discretion of the Association, or Neighborhoods, 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 Property, shall be removed from the Property 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, including all Common Areas, be confined on a leash held by a responsible person. No pet shall be permitted to leave its excrement on any portion of the Common Areas, and the Owner of such pet shall immediately remove the same.

Section 13.8. Quiet Enjoyment. No portion of the Property 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 the Property 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 Property. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Property. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Property. No electric insect killers may be used. The Declarant, or the Association, may order the relocation of any wood piles which are unsightly. No basketball goals shall be attached to any Dwelling and backboards shall be made only of transparent materials.

Section 13.9. Unsightly or Unkept Conditions. It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly or unkept condition on his or her Lot. The pursuit of hobbies or other activities, 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 unkept conditions, shall not be pursued or undertaken on any part of the Property. Nothing which could cause embarrassment, discomfort, annoyance or nuisance to the occupants of other portions of the Development or which result in

a cancellation of any insurance for any portion of the Development, or which would be in violation of any law or governmental code or regulation. Without limiting the generality of the foregoing provisions, no horns, whistles, bells or other sound devices, except security and fire alarm devices used exclusively for such purposes, shall be located, used, or placed within the Development. Any Owner, or his family, tenants, guests, invitees, servants, or agents, who dumps or places any trash or debris upon any portion of the Development shall be liable to the Association for the actual costs of removal thereof or the sum of \$150.00, whichever is greater, and such sum shall be added to and become a part of that portion of any assessment next becoming due to which such Owner and his Lot are subject.

Section 13.10. Antennas. Unless entirely contained within the interior of a building, 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 Property, including any Lot, without the prior written consent of the Board or its designee. No radio or television signals, nor electromagnetic radiation, shall be permitted to originate from any Lot which may unreasonably interfere with the reception of television or radio signals within the Development, provided however that the Declarant and/or the Association shall have the right, without obligation, to erect an aerial, satellite dish, or other apparatus or master antenna or cable system for the benefit of all or a portion of the Property, should any such master system or systems be utilized by the Association and require any such exterior apparatus.

Section 13.11. Garbage Cans, Tanks, Etc. All mechanical equipment and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets and property located adjacent to the Lot. No storage tanks of any kind shall be allowed upon a Lot. No rubbish, trash or garbage containers shall be stored or maintained outdoors except for such temporary storage necessary for immediate pick up of the trash and, in that event, trash shall be stored in appropriate containers.

Section 13.12. Subdivision of Lot and Time Sharing. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board of Directors of the Association. Declarant, however, hereby expressly reserves the right to plat any Lot or Lots owned by Declarant. Any such division, boundary line change, or replatting shall not be in violation of the applicable subdivision and zoning regulations.

No Lot shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Lot rotates among members of the program on a fixed or floating time schedule over a period of years.

Section 13.13. Firearms. The discharge of firearms within the Property is prohibited. The term "firearms" includes "B-B"

guns, pellet 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 13.14. Pools. No above ground swimming pools shall be erected, constructed or installed on any Lot; provided, nothing herein shall preclude installation and use of in ground pools, hot tubs or spas with prior approval pursuant to Article XII of this Declaration.

Section 13.15. Irrigation. All sprinkler and irrigation systems shall be subject to approval in accordance with Article XII of this Declaration. Provided, however, this Section 13.15 shall not apply to the Declarant, and it may not be amended without Declarant's written consent so long as Declarant has the right to submit Additional Property in accordance with Article IX, Section 9.1.

Article 13.16. Tents, Trailers and Temporary Structures. Except as may be permitted by the Declarant or the NCC during initial construction within the Property, 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 with prior written approval of the Board, or the Declarant.

Section 13.17. Drainage, Water Wells and Septic Systems. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Person other than Declarant may obstruct or, rechannel the drainage flows after location and installation of drainage swales, storm sewers, or storm drains. Declarant hereby reserves for itself and the Association a perpetual easement across the properties for the purpose of altering drainage and water flow. No private water wells may be drilled or maintained and no septic tanks or similar sewerage facilities may be installed or maintained on any Lot, except for wells maintained solely for irrigation purposes. All such irrigation wells must receive the prior written approval of the ASC.

Section 13.18. Tree Removal. No trees shall be removed except for diseased or dead trees and trees needing to be removed to promote the growth of other trees or for safety reasons, unless approved in accordance with Article XII of this Declaration. In the event of an intentional or unintentional violation of this Section, the violator may be required by the committee having jurisdiction to replace the removed tree with one (1) or more trees of such size and number, and in such locations, as such committee may determine in its sole discretion.

Section 13.19. Traffic Regulation and 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 wherein it would create a traffic or sight problem. All vehicular traffic on the private streets and roads in the Development shall be subject to the provisions of the laws of the State of Indiana and Hamilton County concerning operation of motor vehicles on public streets. The Association is hereby authorized to promulgate, administer, and enforce reasonable rules and regulations governing vehicular and pedestrian traffic, including modifications of those in force on public streets, within the Development. The Association shall be entitled to enforce same by establishing such enforcement procedures as it deems necessary, including levying fines for the violation thereof. In the event of a conflict between such provisions of the laws of the state of Indiana and Hamilton County and such rules and regulations promulgated by the Association, the rules and regulations of the Association shall govern. Only drivers licensed to operate motor vehicles by the state of Indiana or by any other state in the United States may operate any type of motor vehicle, including golf carts, within the Development. In order to operate a golf cart in the Development, the Owners or users thereof shall have complied with any regulations and requirements for the operation thereof as may be required by the Association and the Club Owner. All vehicles of any kind and nature which are operated on the streets in the Development shall be operated in a careful, prudent, safe and quiet manner and with due consideration for the rights of all residents of the Development.

Section 13.20. Utility Lines. No overhead utility lines, including lines for cable television, shall be permitted within the Property, except for temporary lines as required during construction and high voltage lines if required by law for safety purposes.

Section 13.21. Air Conditioning Units. Except as may be permitted by the Board or its designee, no window air conditioning units may be installed in any Lot.

Section 13.22. Lighting. Except for seasonal Christmas decorative lights, which may be displayed between December 1 and January 10 only, all exterior lights must be approved in accordance with Article XII of this Declaration; provided, however, each Owner must continually maintain at its own expense dusk to dawn photo cell lighting on the exterior of its Dwelling of a design established by the Declarant or the Association.

Section 13.23. 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 appropriate committee pursuant to Article XII hereof.

Section 13.24. Artificial Vegetation, Exterior Sculpture, and Similar Items. No artificial vegetation shall be permitted on the exterior of any portion of the Property. Exterior sculpture, fountains, flags, and similar items must be approved in accordance with Article XII of this Declaration.

Section 13.25. Wetlands, Lakes and Water Bodies. All wetlands, lakes, ponds, and streams within the Property, if any, shall be aesthetic amenities only, and no other use thereof, including without limitation, fishing, swimming, boating, playing or use of personal flotation devices, shall be permitted without the prior approval of the Board of Directors. This Section shall not apply to prohibit use by the Golf Club of lakes, ponds, or streams within the Golf Club or other purposes in connection with golf course play. The Association shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds or streams within the Property. No docks, piers, or other structures shall be constructed on or over any body of water within the Property, except such as may be constructed by the Declarant of the Association.

Section 13.26. Playground. Any playground or other play areas or equipment furnished or erected within the Property by the Association 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 any use thereof. No playground equipment, tree houses, or similar structures shall be erected on any Lot without prior approval pursuant to Article XII hereof. All playground equipment shall be of a treated wood material and no metal playground equipment shall be allowed. Lots bordering the Golf Club will be required to screen any playground equipment with approved shrubbery or hedging.

Section 13.27. 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 XII of this Declaration.

Section 13.28. Business Uses. No garage sale, moving sale, rummage sale or similar activity shall be conducted by an Owner within the Property without the approval of the Association. No trade or business may be conducted in or from any Lot, except that an Owner or occupant residing in a Dwelling may conduct business activities within the Dwelling so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming onto the Property who do not reside in the Property or door-to-door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board.

The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involve 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 therefore. Notwithstanding the above, the leasing of a Lot or Dwelling shall not be considered a trade or business within the meaning of this Section. This Section shall not apply to the Golf Club or any commercial property within the Development nor shall it apply to any activity conducted by the Declarant or a builder approved by the Declarant with respect to its development and sale of the Property or its use of any Lots or Dwellings which it owns within the Property.

Section 13.29. On-Site Fuel Storage. No on-site storage of gasoline, heating or other fuels shall be permitted on any part of the Property except that up to five (5) gallons of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association and the Golf Club shall be permitted to store fuel for operation of maintenance vehicles, generators and similar equipment.

Section 13.30. Leasing of Lot and Dwelling.

(a) **Definition.** "Leasing", for purposes of this Declaration, is defined as regular, exclusive occupancy of a Lot and Dwelling by any person or persons other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to a fee, service, gratuity or emolument.

(b) **Leasing Provisions.**

(i) **General.** Lots and Dwellings may be rented only in their entirety; no fraction or portion may be rented. There shall be no subleasing of Lots and Dwellings or assignment of leases unless prior written approval is obtained from the Board of Directors. No transient tenants may be accommodated in a Lot or Dwelling. All leases shall be in writing and shall be for an initial term of no less than six (6) months, except with the prior written consent of the Board of Directors. Prior to the commencement of any such lease, the Owner shall provide the Secretary of the Association and the managing agent of the Association, if any, with copies of such lease, together with such additional information as may be required by the Board. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the rules and regulations. The Board may adopt reasonable rules regulating leasing and subleasing.

(ii) **Compliance with Declaration; By-Laws and Rules and Regulations.** Every Owner shall cause all occupants of

his or her Lot and Dwelling to comply with the Declaration, By-Laws, 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 foregoing, such occupants of a Lot and Dwelling are fully bound and liable for any violation of the Declarations, By-Laws and rules and regulations adopted pursuant thereto.

Section 13.31. Laws and Ordinances. Every Owner and occupant of any Lot or Dwelling, their guests and invitees, shall comply with all laws, statutes, ordinances and rules of federal, state and municipal governments applicable to the Property and any violation thereof may be considered a violation of this Declaration; provided, however, the Board shall have no obligation to take action to enforce such laws, statutes, ordinances and rules.

Section 13.32. Sales and Construction Activities. Notwithstanding any provisions or restrictions contained in this Declaration to the contrary, it shall be expressly permissible for Declarant and its agents, employees, successors, and assigns to maintain and carry on such facilities and activities as may be reasonably required, convenient, or incidental to the completion, improvement, and sale of Lots and Dwellings or the developing of Lots and Dwellings, Common Areas, and the Additional Property, including, without limitation, the installation and operation of sales and construction trailers and offices, signs and model Dwellings, all as may be approved by Declarant from time to time, provided that the location of any construction trailers of any assignees of Declarant's rights under this Section 13.32 shall be subject to Declarant's approval. The right to maintain and carry on such facilities and activities shall include specifically the right to use Dwellings as model residences, and to use any Dwelling as an office for the sale of Lots and Dwellings and for related activities.

Section 13.33. Golf Course Areas. Owners of Lots adjacent to all golf course fairways and greens, as well as their families, tenants, guests, invitees and pets, shall be obligated to refrain from any actions which would distract from the playing qualities of any golf courses located on the Golf Club property. Such prohibited activities shall include, but not be limited to, maintenance of dogs or other pets under conditions which interfere with golf course play due to their loud barking or other actions, playing of loud radios, televisions, stereos, or musical instruments, running or walking on the fairways, picking up balls, or similar interference with play.

Article XIV

Rulemaking

Section 14.1. Rules and Regulations. Subject to the provisions hereof, the Board of Directors may establish reasonable rules and regulations concerning the use of Lots and

Dwellings, and the Common Areas and facilities located thereon. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of such rules and regulations and amendments thereto. Such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, servants and agents, until and unless any such rule or regulation be specifically overruled, cancelled, or modified by the Board of Directors or in a regular or special meeting of the Association by the vote of the Owners, in person or by proxy, holding a majority of the total votes in the Association, provided that in the event of such vote, such action must also be approved by Declarant, for so long as Declarant owns any Lot or holds the unexpired option to submit the Additional Property or any portion thereof to the Development.

Section 14.2. Authority and Enforcement.

(a) Upon the violation of this Declaration, the By-Laws, or any rules and regulations duly adopted hereunder, including, without limitation, the failure to timely pay any assessments, the Board shall have the power, after fifteen (15) days written notice to Owner or Occupant of said violation, and failure by said Owner or Occupant to cure the violation:

(i) to cause the Association to correct the violation at its own cost and expense, which said cost and expense shall constitute a continuing lien upon the Lot of the Owner or Occupant who is guilty of such violation;

(ii) to suspend an Owner's right to vote in the Association; and

(iii) to suspend an Owner or Occupant's right (and the right of his or her family, guests, and tenants) to use any of the Common Areas.

The Board shall have the power to impose all or any combination of these sanctions. An Owner or Occupant shall be subject to the foregoing sanctions in the event of such a violation by him or her, his or her family, guests, or tenants. Any such suspension of rights may be for the duration of the infraction and or any additional period thereafter, not to exceed thirty (30) days per violation.

(b) Notwithstanding subsection (a) above, a violation or threatened violation of any of the covenants and restrictions contained in this Declaration and the provisions contained in the Articles of Incorporation and By-Laws of the Association, or any rules and regulations adopted hereunder, shall be grounds for an action at law or equity instituted by Declarant, the Association, or any Owner against any person violating or threatening to violate any such covenant, restriction, rule, or regulation. Available relief in any such action shall include the recovery of damages, injunctive relief, either to restrain the violation or threatened violation or to compel compliance with the covenants,

restrictions, rules or regulations, declaratory relief, the enforcement of any lien created by these covenants, restrictions, rules, or regulations, and the recovery of costs and attorneys' fees incurred by any party successfully enforcing such covenants, restrictions, rules, or regulations. Failure by the Declarant, the Association, or any Owner to enforce any covenant, restriction, rule, or regulation shall in no event be deemed a waiver of the right to do so thereafter; provided, however, that no action shall be brought against either the Declarant or the Association for failing to enforce or carry out any such covenants, restrictions, rules, or regulations.

Article IV

General Provisions

Section 15.1. Control by Declarant. NOTWITHSTANDING ANY OTHER LANGUAGE OR PROVISION TO THE CONTRARY IN THIS DECLARATION, IN THE ARTICLES OF INCORPORATION, OR IN THE BY-LAWS OF THE ASSOCIATION, Declarant hereby retains the right to appoint and remove any member or members of the Board of Directors of the Association as provided by Section 4.2 of the Declarations and Article III of the By-Laws. Every grantee of any interest in the Development, by acceptance of a deed or other conveyance of such interest, agrees that Declarant shall have the authority to appoint and remove directors of the Association in accordance with these provisions. Upon the expiration of the period of Declarant's right to appoint and remove directors of the Association, such right shall pass to the Voting Members, as more specifically set forth in Article III of the By-Laws. At such time, Declarant shall deliver to the new Board of Directors all books, accounts, and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.

Section 15.2. Term. The covenants and restrictions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and shall be enforceable by the Association or the Owner of any property subject to this Declaration, their respective legal representative, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by more than 75% of the then Owners has been recorded within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated as specified therein. The number of ten (10) year renewal periods shall be unlimited.

Section 15.3. Amendment. Prior to the conveyance of the first lot, Declarant may unilaterally amend this Declaration. After such conveyance, the Declarant may unilaterally amend this

Declaration at any time and from time to time if such amendment is (a) necessary to bring any provision hereof into compliance with any applicable governmental statutes, rule or regulation, or judicial determination; (b) necessary to enable any reputable title insurance company to issue title insurance coverage on the Lots; (c) required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to acquire or purchase mortgage loans on the Lots; or (d) necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the Lots; provided, however, any such amendment shall not adversely affect the title to any Lot unless the Owner shall consent thereto in writing. Additionally, so long as it still owns any property described in Exhibits "A" or "B" for development as part of the Property, the Declarant may unilaterally amend this Declaration for any purpose, provided the amendment has no materially adverse effect upon any right of any Owner.

Thereafter and otherwise, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Voting Members representing sixty-seven percent (67%) of the total Class A votes in the Association, including sixty-seven percent (67%) of the Class A Votes held by Members other than the Declarant, and the consent of the Class B Member, so long as such membership exists. In addition, the approval requirements set forth in Article XVI hereof shall be met, if applicable. Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment to be effective must be recorded in the public records of Hamilton County, Indiana.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority so to consent and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

No amendment may remove, revoke, or modify any right or privilege of Declarant without the written consent of Declarant or the assignee of such right or privilege.

Section 15.4. Indemnification. The Association shall indemnify every officer, director, and committee member against any and all expenses, including counsel fees, reasonably incurred by or imposed upon such officer, director, or committee member in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an officer, director or committee member. The officers, directors, and committee members shall not be liable for any mistake of judgement, negligent or otherwise, except for their own individual willful misfeasance, malfeasance,

misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer, director, or committee member or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 15.5. Easements for Utilities, Etc. There is hereby reserved unto Declarant, so long as the Declarant owns any property described on Exhibits "A" or "B", the Association, and the designees of each (which may include, without limitation, Hamilton County, Indiana, and any utility), blanket easements upon, across, over and under all of the Property as more specifically set forth in Article III, Section 3.8 of this Declaration.

Without limiting the generality of the foregoing, there are hereby reserved for the Indianapolis Water Company, its successors and assigns, easements across all Lots and the Common Areas for ingress, egress, installation, reading, replacing, repairing, and maintaining water meter boxes. Notwithstanding anything to the contrary contained in this Section, no sewers, electrical lines, water lines, or other utilities may be installed or relocated on the Property, except as may be approved by the Board of Directors.

Should any entity furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, the Board of Directors shall have the right to grant such easement over the Property without conflicting with the terms hereof. The easements provided for in this Article shall in no way adversely affect any other recorded easement on the Property.

The Board shall have by a two-thirds (2/3) vote the power to dedicate portions of the Common Areas to Hamilton County, Indiana, or to any other local, state, or federal governmental entity, for utility or other purposes subject to such approval requirements as may be contained in Section 16.2 of this Declaration.

Section 15.6. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or the Board of Directors will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this