

9224175

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR DELAWARE CROSSING

THIS DECLARATION made this 1st day of June, 1992, by C.P. MORGAN COMMUNITIES, L.P., an Indiana limited partnership ("Developer").

WITNESSETH: This Instrument Recorded 6-26 1992  
Sharon K. Cherry, Recorder, Hamilton County, Indiana

WHEREAS, Developer is the purchaser and owner of all of the lands contained in the area shown on Exhibit "A", attached hereto and made a part hereof, which lands will be subdivided for development of Delaware Crossing, a single family housing development in Hamilton County, Indiana (the "Development"), and will be more particularly described on the plats of the various sections thereof recorded and to be recorded in the Office of the Recorder of Hamilton County, Indiana (the "Plats"); and

WHEREAS, Developer is about to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges contained herein and as set forth in the Plats (the "Declaration" or "Restrictions") under a general plan or scheme of improvement for the benefit and complement of the lots and lands in the Development and future owners thereof;

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, 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 lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer 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 the Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development. Developer specifically reserves unto itself the right and privilege to exclude any real estate from the Development, or to include additional real estate in the Development including real estate adjacent to the Development.

1. Definitions. The following are the definitions of the terms as they are used in this Declaration:

A. "Assessment" shall mean the share of the Common Expenses imposed on each Lot or other special assessments, as determined and levied pursuant to the provisions of paragraph 5 hereof.

B. "Association" shall mean the Delaware Crossing Homeowners' Association, Inc., an Indiana nonprofit corporation formed to be formed under the Indiana Nonprofit Corporation Act of 1991, as amended.

C. "Board" shall mean the Board of Directors of the Association

D. "Committee" shall mean the Development Control Committee, composed of three (3) members of the Association appointed by the Board. The members of the Committee shall serve for one (1) year terms, but are subject to removal by the Board at any time with or without cause. Any vacancies on the Committee from time to time existing shall be filled by appointment by the Board. Notwithstanding anything herein to the contrary, Developer shall have the power and authority of the Committee during the Development Period.

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E. "Common Area(s)" shall mean those areas and all improvements located thereon set aside for recreation areas, theme structures or landscaped areas or mounds at street entrances, lights, park areas, street landscaping, the Lakes, as defined herein. the shoreline area of the Lakes as shown on the Plats and any other areas so designated on the Plats.

F. "Common Expenses" shall mean the actual and estimated cost to the Association of its proportionate share of the costs for maintenance, management, operation, repair, improvement and replacement of the Common Areas, and any other cost or expense incurred by the Association for the benefit of the Common Areas or for the benefit of the Association.

G. "Development Period" shall mean the period of time during which Developer owns at least one (1) Lot as defined herein.

H. "Lake" or "Lakes" shall mean and refer to the water detention pond(s) or lake(s) and common area portion of the shoreline area as shown on the Plats which serves or shall serve as part of the storm and surface water drainage system serving the Development, as such are or in the future shall be more particularly described on the Plats.

I. "Limited Common Area" may appear upon the Plats designated by block letter and further identified as a "cul-de-loop" which is created for the exclusive use and enjoyment of those particular lots having public street access therefrom. Each such owner shall have an easement for ingress and egress in common with the other adjacent owners to the public street across such area. Such cul-de-loop may further have a landscaped island as may be shown on the Plats therein adjacent to the public right-of-way and such Limited Common Area shall be owned and maintained by equal undivided interests as tenants in common of the lots abutting thereon and using the cul-de-loop as a means of ingress and egress to the public street. Such maintenance and repair shall be undertaken by a determination in writing of a majority of the lot owners having an undivided interest in the Limited Common Area, and upon the failure of any such lot owner to pay his equal contributive share for such maintenance or repair, the remaining lot owners or any one of them may advance the defaulting lot owner's contributive share upon thirty (30) days' written notice and such advancement shall constitute a lien upon the lot of the defaulting lot owner enforceable in the same manner and under the same terms as made and provided under the provisions of the Mechanics Lien Laws of the State of Indiana, Chapter 116 of the Acts of the 1909 Indiana General Assembly as amended to date, I.C. 32-8-3-1 at 222. Any such lien shall be subordinate to the lien of any first mortgage and any first mortgagee taking title to a lot by foreclosure or deed in lieu thereof shall take title free and clear of any such assessments for work performed prior to such mortgagee's taking title.

J. "Lot" or "Lots" shall mean any parcel(s) of real estate, whether residential or otherwise, described by one of the Plats.

K. "Member" shall mean any person or entity holding membership in the Association as provided in this Declaration.

L. "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

## 2. Organization and Purposes of Association

A. Organization of Association. The Association shall be organized as a nonprofit corporation under the laws of the State of Indiana, to be operated in accordance with the Articles of Incorporation which have been filed or will be filed by Developer, and the Code of By-Laws of the Association. The membership of the Association shall consist of one class of voting members, with each Member having equal voting rights. In the event that any one Lot

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shall be owned by more than one person, partnership, trust, corporation, or other entity, they shall be treated collectively as one Member for voting purposes, so that as to any matter being considered by the Association, only one vote appertains to each Lot. Notwithstanding anything herein to the contrary, during the Development Period, all actions of the Association shall require the prior written approval of the Developer.

B. General Matters of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of the individual Owners in all matters pertaining to the maintenance, repair, and replacement, of the Common Areas, the determination of Common Expenses, and the collection of annual and special Assessments. The Association shall also have the right, but not the obligation to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in the Plats. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of this Declaration, or for any failure to take any action called for by this Declaration, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct.

C. Amendment of Declaration. The Association shall have the right to amend this Declaration at any time, and from time to time, in accordance with paragraph 10 of this Declaration.

D. Insurance. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury. The Association may, but need not, maintain in force adequate officers and directors insurance covering the officers and directors of the Association. If appropriate, the Association shall also maintain in force adequate fire and extended coverage insurance, insuring all Common Areas against fire, windstorm, vandalism, and such other hazards as may be insurable under standard "extended coverage" provisions, in an amount equal to the full insurable value of such improvements and property. The Association shall notify all mortgagees which have requested notice of any lapse, cancellation, or material modification of any insurance policy. All policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, Board members, the Developer, any property manager, their respective employees and agents, the Owners and occupants, and also waives any defenses based on co-insurance or on invalidity arising from acts of the insured, and shall cover claims of one or more parties against other insured parties.

The Association may maintain a fidelity bond indemnifying the Association, the Board and the Owners for loss of funds resulting from fraudulent or dishonest acts of any director, officer, employee or anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The fidelity bond should cover the maximum amount of funds which will be in the custody of the Association or its management agent at any time, but in no event shall such fidelity bond coverage be less than the sum of one (1) year's assessment on all Lots in the Development, plus the Association's reserve funds.

The Association shall cause all insurance policies and fidelity bonds to provide at least ten (10) days written notice to the Association, and all mortgagees who have requested such notice, before the insurance policies or fidelity bonds can be canceled or substantially modified for any reason.

E. Condemnation, Destruction. In the event that any of the Common Areas shall be condemned or taken by any competent public authority, or in the event the same shall be damaged or destroyed by any cause whatsoever, the Association shall represent the interests of the Owners in any proceedings, negotiations, insurance

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adjustments, settlements, or agreements in connection with such condemnation, damage, or destruction. Any sums recovered by the Association shall be applied, first, to the restoration and repair of any Common Areas condemned, damaged, or destroyed, to the extent such restoration or repair is practicable, and the balance of such sums shall either be held as a reserve for future maintenance of the Common Areas or turned over to the Owners in proportion to their Pro-rata Shares (as hereinafter defined), whichever may be determined by a majority vote of the members of the Association. Each Owner shall be responsible for pursuing his own action for damages to his Lot, either by reason of direct damage thereto or by reason of an impairment of value due to damage to the Common Areas. The Association shall notify all Mortgagees of which it has notice of any condemnation, damage, or destruction of any Common Areas.

F. Transfer of Control of the Association Developer shall transfer control of the Association (subject to its rights under Section 2 A. hereof) as soon as is practical upon the transfer of a number of Lots equal to eighty percent (80%) of the Lots in the Development; provided, however, that Developer may transfer control of the Association at an earlier date in its sole discretion.

G. Interim Advisory Committee. Until such time as Developer shall transfer control of the Association pursuant to paragraph 2.F. hereof, there shall exist an Interim Advisory Committee (the "Committee"). The Committee shall serve as a liaison between the Owners (other than the Developer) and the Association, and advise the Association from time to time during such period. The Committee shall consist of three (3) members, each of whom must be an Owner (other than Developer, or an officer, director or employee of Developer). The members of the Committee shall serve without compensation. The Committee shall be elected for a term of one (1) year by the Owners (other than Developer) at a meeting thereof called for such purpose. The Owners (other than Developer) may remove any member of the Committee with or without cause, and elect a successor at a meeting thereof called for such purpose.

H. Mortgagees' Rights. Any mortgagees of any Owners shall have the right, at their option, jointly or severally, to pay taxes or other charges which are in default or which may or have become a charge against the Common Areas and to pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for the Common Areas, and mortgagees making such payment shall be owed immediate reimbursement therefor from the Association. In addition, neither the Owners nor the Association shall materially impair the right of any mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Real Estate.

### J Powers of Committee

A. In General. No dwelling, building structure, fencing, exterior painting (excluding repainting in the same color) or exterior improvement of any type or kind (excluding landscaping) shall be constructed or placed on any Lot without the prior written approval of the Committee. Such approval shall be obtained only after written application requesting authorization has been made to the Committee by the Owner of the Lot. Such written application shall be in the manner and form prescribed from time to time by the Committee, and the Committee may require a set of plans and specifications for any such proposed construction or improvement. The Committee may require that such plans include plot plans showing the location of all improvements existing upon the Lot and the location of the improvements proposed to be constructed or placed upon the Lot, such property and clearly designated. The Committee may also require that such plans and specifications set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. Chain link fences must have a black or brown factory finish. Wood fences shall be painted or stained in a color compatible with the residence. Notwithstanding anything herein to the contrary, approval of the Committee will not

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be required for improvements, fencing or structures placed on a Lot by the Developer.

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

(1) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvements to be in violation of these Restrictions;

(2) The design, proposed material or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures, including trim, siding, roof and brick colors, or with the Development in general;

(3) The proposed improvement or any part thereof would architecturally, in the reasonable judgment of the Committee, be contrary to the interests, welfare or rights of all or any other Owners.

**C. Duties of Committee.** The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been received. A copy of submitted materials 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. The Committee shall further affix its signature of approval upon two (2) site plans for purposes of obtaining an Improvement Location Permit, or similar permit, from the Permits Section of the Department of Metropolitan Development, or other applicable governmental authority, if such are required.

**D. Liability of Committee.** Neither the Committee nor any agent or member thereof, nor Developer during the Development Period or thereafter, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

**E. Inspection.** The Committee or its designated agent may inspect work being performed to assure compliance with these Restrictions and applicable regulations.

**F. Rules Governing Building on Several Contiguous Lots Having One Owner.** Whenever two or more contiguous lots shall be owned by the same Owner, and such Owner shall desire to use two or more of said lots as a site for a single dwelling, 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 shall be treated as a single lot for the purpose of determining the Assessment and for applying these Restrictions to said lots, so long as such lots remain improved with one single dwelling.

#### 1. Remedies

**A. In General.** Any party to whose benefit these Restrictions inure, including Developer, any Owner, the Association, or any applicable governmental authority, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but Developer or the Association shall not be liable for damages of any kind to any person for failing either to enforce or carry out any of these Restrictions.

**B. Delay or Failure to Enforce.** No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

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5 Covenants for Maintenance Assessments

A. Purpose of Assessments The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within the Development and promoting the health, safety, and welfare of the Owners, users, and occupants of the Development and, in particular, for the Association's obligations relating to the improvement, repairing, operating, and maintenance of the Common Areas, including, but not limited to, the payment of taxes and insurance thereon, or payment of the Restrictions, and for the cost of labor, equipment, material, and management furnished with respect to the Common Areas; provided that the Association shall not be responsible for the replacement, repair or maintenance of any Common Areas which are or hereafter may be dedicated to the public. Each Owner (except the Developer) hereby covenants and agrees to pay to the Association:

(A) A Pro-rata Share (as hereinafter defined) of the annual Assessment fixed, established, and determined from time to time, as hereinafter provided

(B) A Pro-rata Share (as hereinafter defined) of any special Assessments fixed, established, and determined from time to time, as hereinafter provided

The Developer hereby covenants and agrees to pay to the Association during the Development Period an amount equal to the difference, if any, between the expenditures of the Association made pursuant to this Section 5.A and the aggregate amount of the annual Assessments collected by the Association

B. Liability for Assessment Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot other than Lots owned by the Developer and shall constitute a lien from and after the due date thereof in favor of the Association upon each such Lot. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each such Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor

C. Pro-rata Share The Pro-rata Share of each Owner for purposes of this paragraph 5 shall be the percentage obtained by dividing one by the total number of Lots shown on the Plats of the Development ("Pro-rata Share"), except, as provided in Paragraph 3F herein.

D. Basis of Annual Assessments The Board shall establish an annual budget prior to the beginning of each fiscal year, setting forth estimates of all Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves of the Association. A copy of this budget shall be mailed or delivered to each Owner prior to the beginning of each fiscal year of the Association.

E. Power of Special Assessments Should the Board at any time during the fiscal year determine that the Assessment levied with respect to such year are insufficient to pay the Common Expenses for such year, the Board may, at any time, and from time to time levy such special Assessments as it may deem necessary for meeting the Common Expenses. In addition, the Board shall have the right to levy at any time, and from time to time, one or more special Assessments

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for the purpose of defraying, in whole, or in part, any unanticipated Common Expense not provided for by the annual Assessments.

F. Fiscal Year; Date of Commencement of Assessments; Due Dates.  
The fiscal year of the Association shall be established by the Association and may be changed from time to time by action of the Association. At the election of the Developer, the annual Assessments of each lot in each section of the Development shall commence on the first day of the second month following the month in which Developer first conveys ownership of any Lot in such section to an Owner. The first annual Assessment within each section of the Development shall be made for the balance of the Association's fiscal year in which such Assessment is made and shall become due and payable commencing on any date fixed by the Association. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Association may from time to time by resolution authorize the payment of such Assessments in installments.

G. Duties of the Association

(i) The Board shall keep proper books and records of the levy and collection of each annual and special Assessment, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept by the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times during regular business hours of the Association. The Board shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed or delivered to the Owners or their designated representatives as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed or delivered less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing or delivery of such notice.

(ii) The Association shall promptly furnish to any Owner or any mortgagee of any Owner upon request a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to such requesting Owner's or mortgagee's Lot. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(iii) The Association shall notify any mortgagee from which it has received a request for notice of any default in the performance by any owner of any obligation under the By-laws or this Declaration which is not cured within sixty (60) days.

H. Non-payment of Assessments; Remedies of Association.

(i) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assigns of such Owner in such Lot, and shall be collected in the same manner as the

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Assessments described in paragraph ii hereof; provided, however, that such lien shall be subordinate to any mortgage on such lot recorded prior to the date on which such Assessment becomes due

(ii) If any Assessment upon any lot is not paid within thirty (30) days after the due date, such Assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at an annual rate which is two times the rate in effect for ninety-day U.S. Treasury Bills at the time such Assessment is due, but in no event greater than the maximum rate allowable under any applicable usury laws, and the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year. Such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special Assessments for such purpose, at the option of the Association. In the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, a Pro-rata Share of such excess shall be a credit against the Assessment(s) due from each Owner for the next fiscal year(s)

6. Effect of becoming an Owner. The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the new Owner acknowledges the rights and powers of Developer with respect to these Restrictions and also for themselves, their heirs, personal representatives, successors and assigns. Such Owners covenant and agree and consent to and with Developer and to and with 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

7. Control of the Lakes and Common Areas

A. Control by the Board. The Board shall regulate the Lakes and Common Areas and shall provide for the maintenance thereof in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures in the vicinity thereof and the natural or other vegetation and topography of the Lakes and Common Areas

B. Conditions. No improvements, excavation, changes in grade or other work shall be done upon the Lakes or Common Areas by any Owner, nor shall the Lakes or Common Areas be changed by any Owner from its natural or improved existing state, without the prior written approval of the Board

8. Restrictions, Covenants and Regulations

A. Restrictions on Use. The following covenants and restrictions on the use and enjoyment of the lots, the Lakes and the Common Areas shall be in addition to any other covenants or restrictions contained herein or in the Plats and 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 be enforceable by any 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 of such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. Those covenants and restrictions are as follows:

(a) No one other than Owners who are Members in good standing with the Association, or such an Owner's occupant, tenants, guests or invitees, may use the Lakes or the Common Areas.

(b) No nuisance shall be permitted to exist on any Lot and no waste shall be committed on any Lot which shall or might damage or cause injury to the Lakes or the Common Areas.

(c) All Owners and members of their families, their guests, or invitees, and all occupants of any Lot or the Properties or other persons entitled to use the same and to use and enjoy the Lakes and the Common Areas, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Lakes and the Common Areas.

(d) No Owner shall be allowed to plant trees, landscape or do gardening in any part of the Lakes or the Common Areas, except with express permission from the Board.

(e) The Lakes and the Common Areas shall be used and enjoyed only for the purposes for which they are designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board. Without limiting the generality of the foregoing, the Lakes are and will be an integral part of the storm water drainage system serving the Development, and are intended to be used for such purpose and primarily as a visual and aesthetic amenity and not as a recreational amenity. Accordingly, no use shall be made of the Lakes which in any way interferes with their proper functioning as part of such storm water drainage system. No boating, swimming, diving, skiing, ice skating or other recreational activity shall be permitted in or on the Lakes. 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 the Lakes, except the Association 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 shoreline area of the Lakes by an Owner, his occupants, his invited guests and family, shall be permitted subject to rules determined by the Association and obedience and compliance with all applicable fishing and game laws, ordinances, rules and regulations. No Owner or other person shall take or remove any water from or out of the Lakes, or utilize the water contained therein for any purposes, including, without limitation, connection with any sprinkler or irrigation systems. No piers, docks, retaining walls, rafts or other improvements shall be built, constructed or located on any lot or on the Properties, except by Developer and/or the Association, which extend into, or to within twenty-five (25) feet from the shoreline of the Lakes.

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B. Nonapplicability to Association. Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in subparagraph A of this paragraph 8 shall not apply to or be binding upon the Association in its management, administration, operation, maintenance, repair, replacement and upkeep of the Lakes and 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 Lakes and Common Areas.

9. Duration. The foregoing covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them for a period commencing on the date this Declaration is recorded and expiring December 31, 2017, at which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years. Changes or amendments in these covenants, conditions and restrictions may be made by Owners in accordance with paragraph 10 hereof.

10. Amendment of Declaration.

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

(i) 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.

(ii) 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.

(iii) 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 By-Laws of the Association.

(iv) 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; provided, however, that during the Development Period, any amendment to this Declaration shall require the prior written approval of Developer. In the event any Lot is subject to a first mortgage, the mortgagee thereunder shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the mortgagee has given prior written notice of its mortgage interest to the Association.

(v) Special Amendments. No amendment to this Declaration shall be adopted which changes the applicable share of an Owner's liability for assessments, or the method of determining the same, without, in each and any of such circumstances, the unanimous approval of all Owners and all mortgagees whose mortgage interests have been made known to the Association.

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

B. Amendments by Developer Alone. Notwithstanding the foregoing or anything elsewhere contained herein, the Developer shall have and hereby reserves the right and power acting alone, and without the consent or approval of any other of the Owners, the Association, the Board of Directors, any mortgagees or any other person, except as provided below, to amend or supplement this



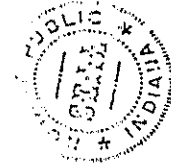
Declaration of Covenants, Conditions and Restrictions for Delaware  
Crossing on behalf of such partnership, and who, having been duly  
sworn, stated that the representations therein contained are true.

Witness my hand and Notarial Seal this 26 day of JUNE,  
1992

*Dennis H. Guyton*  
(Dennis H. Guyton) Notary Public

My Commission Expires:  
12/4/92

My County of Residence is:  
MARION



This Instrument was prepared by Lewis E. Willis, Jr., Attorney at Law

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EXHIBIT A

Part of the West Half of the Southeast Quarter and part of the East Half of the Southeast Quarter of Section 6, Township 17 North, Range 5 East, Delaware Township, Hamilton County, Indiana, described as follows:

Commencing at the Southeast corner of the West Half of the Southeast Quarter of said Section 6; thence on an assumed bearing of North 89 degrees 18 minutes 29 seconds West along the south line of said Southeast Quarter a distance of 1314.83 feet to the Southwest corner of said Southeast Quarter, also being the southeast corner of said Southwest Quarter; thence North 89 degrees 05 minutes 27 seconds West along the south line of said Southwest Quarter a distance of 157.72 feet; thence North 00 degrees 53 minutes 33 seconds East a distance of 807.17 feet to the Point of Beginning; thence continuing North 00 degrees 53 minutes 33 seconds East a distance of 268.50 feet to the point of curvature of a curve having a radius of 1000.00 feet, the radius point of which bears South 89 degrees 05 minutes 27 seconds East; thence northerly along said curve on arc distance of 294.83 feet to the point of reverse curvature of a curve having a radius of 1087.00 feet, the radius point of which bears North 72 degrees 12 minutes 53 seconds West; thence northerly along said curve on arc distance of 504.89 feet to a point which bears North 80 degrees 57 minutes 42 seconds East from said radius point; thence South 89 degrees 17 minutes 55 seconds East, parallel with the South line of the North Half of said Southeast Quarter Section, a distance of 632.13 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 120.29 feet to a curve having a radius of 225.00 feet, the radius point of which bears South 04 degrees 55 minutes 52 seconds West; thence Westerly along said curve on arc distance of 19.36 feet to a point which bears North 00 degrees 00 minutes 00 seconds West from said radius point; thence South 00 degrees 00 minutes 00 seconds East a distance of 50.00 feet; thence North 00 degrees 00 minutes 00 seconds West a distance of 7.72 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 128.70 feet; thence South 49 degrees 04 minutes 05 seconds East a distance of 90.36 feet; thence South 04 degrees 00 minutes 00 seconds East a distance of 300.00 feet; thence South 06 degrees 34 minutes 02 seconds West a distance of 178.63 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 50.00 feet; thence North 90 degrees 00 minutes 00 seconds West a distance of 6.02 feet; thence South 00 degrees 00 minutes 00 seconds East a distance of 180.00 feet; thence North 50 degrees 00 minutes 00 seconds West a distance of 365.00 feet; thence North 82 degrees 00 minutes 00 seconds West a distance of 174.77 feet; thence South 66 degrees 00 minutes 00 seconds West a distance of 181.03 feet; thence North 90 degrees 00 minutes 00 seconds West a distance of 54.98 feet to the Beginning Point, containing 16.214 acres, more or less.

This instrument recorded 6-26 1998  
Sharon K. Cherry, Recorder, Hamilton County, Indiana

LAND DESCRIPTION

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 17 NORTH, RANGE 5 EAST, DELAWARE TOWNSHIP, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 6, THENCE ON AN ASSUMED BEARING OF NORTH 00 DEGREES 15 MINUTES 13 SECONDS EAST ALONG THE EAST LINE OF THE WEST HALF SAID SOUTHEAST QUARTER A DISTANCE OF 539.93 FEET TO THE POINT OF BEGINNING; THENCE NORTH 70 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 249.24 FEET; THENCE SOUTH 40 DEGREES 30 MINUTES 00 SECONDS WEST A DISTANCE OF 133.07 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 131.42 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 373.30 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 120.00 FEET; THENCE SOUTH 70 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 8.69 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 308.00 FEET; THENCE NORTH 04 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 178.63 FEET; THENCE NORTH 49 DEGREES 04 MINUTES 05 SECONDS WEST A DISTANCE OF 90.36 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 128.70 FEET; THENCE SOUTH 70 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 7.72 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 100.00 FEET TO A POINT ON A CURVE HAVING A RADIUS OF 225.00 FEET THE RADIUS POINT OF WHICH BEARS SOUTH 08 DEGREES 00 MINUTES 00 SECONDS WEST; THENCE EASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 19.36 FEET TO A POINT WHICH BEARS NORTH 04 DEGREES 55 MINUTES 46 SECONDS EAST FROM SAID RADIUS POINT; THENCE NORTH 80 DEGREES 57 MINUTES 42 SECONDS EAST A DISTANCE OF 504.89 FEET; THENCE SOUTH 89 DEGREES 17 MINUTES 55 SECONDS EAST PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER SECTION A DISTANCE OF 718.02 FEET TO THE EAST LINE OF THE WEST HALF OF SAID SOUTHEAST QUARTER SECTION; THENCE SOUTH 00 DEGREES 15 MINUTES 13 SECONDS WEST ALONG SAID EAST LINE A DISTANCE OF 761.27 FEET TO THE BEGINNING POINT, CONTAINING 15.372 ACRES, MORE OR LESS.

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9314500

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DELAWARE CROSSING

THIS AMENDMENT made this 7<sup>th</sup> day of APRIL, 1993, by C.F. Morgan Communities, L.P., an Indiana limited partnership ("Developer"),

WITNESSETH:

WHEREAS, Developer executed a Declaration of Covenants, Conditions and Restrictions for Delaware Crossing dated June 26, 1992 and recorded June 28, 1992 as Instrument No. 92-24175 in the Office of the Recorder of Hamilton County, Indiana (the "Declaration"); and

WHEREAS, a portion of the real estate attached as Exhibit "A" to the Declaration was not owned by Developer at the time of the execution and recordation of the Declaration; and

WHEREAS, Developer desires to release from the Declaration the real estate described on Exhibit "A-1" attached hereto and made a part hereof;

NOW, THEREFORE, Developer hereby declares that the real estate described on Exhibit "A" to the Declaration be amended to delete the property described on Exhibit "A-1" attached hereto.

Except as amended as provided above, all other terms and conditions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has executed this Amendment as of the day and year first above written.

C.F. MORGAN COMMUNITIES, L.P., an Indiana limited partnership

By: C.F. Morgan Investment Co., Inc., Its General Partner

By: Mark W. Boyce  
Mark W. Boyce, Vice President

STATE OF INDIANA )  
COUNTY OF HAMILTON )

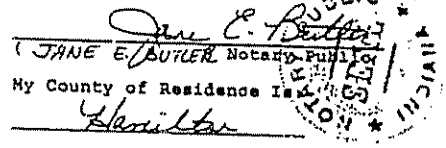
This Instrument Recorded 4-12-1993  
Shera K. [unclear] Hamilton County, IN

Before me, a Notary Public in and for said County and State, personally appeared Mark W. Boyce, known by me to be the Vice President of C.F. Morgan Investment Co., Inc., the General Partner of C.F. Morgan Communities, L.P., and being first duly sworn, acknowledged the execution of the foregoing Amendment for and on behalf of said Corporation for and on behalf of said Partnership.

INSTR. # 93 14500

RECORDED  
APR 12 1993  
S  
HAMILTON CO. IN

Witness my hand and Notarial Seal this 7<sup>th</sup> day of April, 1993.



My Commission Expires: March 4, 1997

My County of Residence is Hamilton

This Instrument was prepared by Bruce E. Smith, Attorney.

morgan\4496.job

9314500

CASE NO. 93297986

EXHIBIT A-1 LEGAL DESCRIPTION

PARCEL I

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 6,  
TOWNSHIP 17 NORTH, RANGE 5 EAST, DELAWARE TOWNSHIP, HAMILTON  
COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF  
THE SOUTHEAST QUARTER OF SAID SECTION 6, THENCE ON AN ASSUMED  
BEARING OF NORTH 00 DEGREES 15 MINUTES 18 SECONDS EAST ALONG THE  
EAST LINE OF SAID QUARTER-QUARTER SECTION A DISTANCE OF 987.50  
FEET; THENCE NORTH 89 DEGREES 31 MINUTES 31 SECONDS WEST A  
DISTANCE OF 1.68 FEET TO THE EAST LINE OF TRACT OF LAND RECORDED  
AS INSTRUMENT NO. 88-21085 IN THE HAMILTON COUNTY RECORDER  
OFFICE (THE NEXT THREE DESCRIBED COURSES BEING ALONG SAID EAST  
LINE); THENCE NORTH 00 DEGREES 12 MINUTES 10 SECONDS EAST A  
DISTANCE OF 2.43 FEET TO THE SOUTH LINE OF TRACT OF LAND RECORDED  
IN DEED BOOK 152, PAGE 89 IN THE HAMILTON COUNTY RECORDER  
OFFICE; THENCE NORTH 89 DEGREES 17 MINUTES 56 SECONDS WEST ALONG  
SAID SOUTH LINE AND PARALLEL WITH THE SOUTH LINE OF THE NORTH  
HALF OF SAID SOUTHEAST QUARTER SECTION A DISTANCE OF 2 51 FEET  
TO THE SOUTHWEST CORNER OF SAID TRACT; THENCE NORTH 00 DEGREES  
20 MINUTES 47 SECONDS EAST ALONG THE WEST LINE OF SAID TRACT AND  
ALONG THE WEST LINE OF TRACT OF LAND DESCRIBED IN DEED BOOK  
145, PAGE 111 IN THE HAMILTON COUNTY RECORDER OFFICE A DISTANCE  
OF 679.89 FEET; THENCE NORTH 89 DEGREES 17 MINUTES 56 SECONDS  
WEST PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF SAID  
SOUTHEAST QUARTER SECTION A DISTANCE OF 525 55 FEET TO THE  
BEGINNING POINT; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS  
WEST A DISTANCE OF 119.59 FEET TO A POINT ON A CURVE HAVING A  
RADIUS OF 175.00 FEET, THE RADIUS POINT OF WHICH BEARS SOUTH 07  
DEGREES 47 MINUTES 08 SECONDS EAST; THENCE EASTERLY ALONG SAID  
CURVE AN ARC DISTANCE OF 21.26 FEET TO A POINT WHICH BEARS NORTH  
00 DEGREES 49 MINUTES 29 SECONDS WEST FROM SAID RADIUS POINT;  
THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF  
173.56 FEET; THENCE NORTH 80 DEGREES 15 MINUTES 54 SECONDS EAST  
A DISTANCE OF 50.73 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00  
SECONDS EAST A DISTANCE OF 175.87 FEET; THENCE SOUTH 00 DEGREES  
00 MINUTES 00 SECONDS EAST A DISTANCE OF 202.60 FEET; THENCE  
SOUTH 40 DEGREES 30 MINUTES 00 SECONDS WEST A DISTANCE OF 120.11  
FEET; THENCE SOUTH 63 DEGREES 23 MINUTES 06 SECONDS WEST A  
DISTANCE OF 76.79 FEET; THENCE SOUTH 05 DEGREES 49 MINUTES 19  
SECONDS WEST A DISTANCE OF 114.16 FEET; THENCE SOUTH 27 DEGREES  
50 MINUTES 16 SECONDS EAST A DISTANCE OF 72.60 FEET; THENCE

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EXHIBIT A - CONT'D

SOUTH 29 DEGREES 50 MINUTES 50 SECONDS EAST A DISTANCE OF 92.76 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 131.42 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 382.81 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 120.00 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 6.09 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 50.00 FEET; THENCE NORTH 06 DEGREES 34 MINUTES 02 SECONDS EAST A DISTANCE OF 178.63 FEET; THENCE NORTH 04 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 300.00 FEET; THENCE NORTH 49 DEGREES 04 MINUTES 05 SECONDS WEST A DISTANCE OF 90.36 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 128.70 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 7.22 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 50.00 FEET TO A POINT ON A CURVE HAVING A RADIUS OF 225.00 FEET, THE RADIUS POINT OF WHICH BEARS SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST; THENCE EASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 19.36 FEET TO A POINT WHICH BEARS NORTH 04 DEGREES 55 MINUTES 52 SECONDS EAST FROM SAID RADIUS POINT; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 120.29 FEET; THENCE SOUTH 89 DEGREES 17 MINUTES 56 SECONDS EAST PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER SECTION A DISTANCE OF 250.02 FEET TO THE BEGINNING POINT.

PARCEL II

PART OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 17 NORTH, RANGE 5 EAST, DELAWARE TOWNSHIP, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 6, THENCE ON AN ASSUMED BEARING OF NORTH 00 DEGREES 15 MINUTES 18 SECONDS EAST ALONG THE EAST LINE OF SAID QUARTER-QUARTER SECTION A DISTANCE OF 987.50 FEET; THENCE NORTH 69 DEGREES 31 MINUTES 31 SECONDS WEST A DISTANCE OF 1.08 FEET TO THE EAST LINE OF TRACT OF LAND RECORDED AS INSTRUMENT NO. 88-21065 IN THE HAMILTON COUNTY RECORDER OFFICE (THE NEXT THREE DESCRIBED COURSES BEING ALONG SAID EAST LINE); THENCE NORTH 00 DEGREES 12 MINUTES 10 SECONDS EAST A DISTANCE OF 2.40 FEET TO THE SOUTH LINE OF TRACT OF LAND RECORDED IN DEED BOOK 152, PAGE 39 IN THE HAMILTON COUNTY RECORDER OFFICE; THENCE NORTH 89 DEGREES 17 MINUTES 56 SECONDS WEST ALONG SAID SOUTH LINE AND PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER SECTION A DISTANCE OF 2.51 FEET TO THE SOUTHWEST CORNER OF SAID TRACT; THENCE NORTH 00 DEGREES 20 MINUTES 47 SECONDS EAST ALONG THE WEST LINE OF SAID

EXHIBIT A - CONT'D

TRACT AND ALONG THE WEST LINE OF TRACT OF LAND DESCRIBED IN DEED BOOK 145, PAGE 111 IN THE HAMILTON COUNTY RECORDER OFFICE A DISTANCE OF 679.89 FEET; THENCE NORTH 89 DEGREES 17 MINUTES 56 SECONDS WEST PARALLEL WITH THE SOUTH LINE OF THE NORTH HALF OF SAID SOUTHEAST QUARTER SECTION A DISTANCE OF 525.55 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 119.59 FEET TO A POINT ON A CURVE HAVING A RADIUS OF 175.00 FEET, THE RADIUS POINT OF WHICH BEARS SOUTH 07 DEGREES 47 MINUTES 08 SECONDS EAST; THENCE EASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 21.26 FEET TO A POINT WHICH BEARS NORTH 00 DEGREES 45 MINUTES 29 SECONDS WEST FROM SAID RADIUS POINT; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 173.56 FEET; THENCE NORTH 80 DEGREES 15 MINUTES 54 SECONDS EAST A DISTANCE OF 50.73 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 175.87 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 202.60 FEET; THENCE SOUTH 40 DEGREES 30 MINUTES 00 SECONDS WEST A DISTANCE OF 120.11 FEET; THENCE SOUTH 63 DEGREES 23 MINUTES 06 SECONDS WEST A DISTANCE OF 76.79 FEET; THENCE SOUTH 05 DEGREES 45 MINUTES 19 SECONDS WEST A DISTANCE OF 114.16 FEET; THENCE SOUTH 27 DEGREES 50 MINUTES 16 SECONDS EAST A DISTANCE OF 72.68 FEET; THENCE SOUTH 29 DEGREES 50 MINUTES 50 SECONDS EAST A DISTANCE OF 92.76 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 131.42 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 377.30 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 169.04 FEET; THENCE SOUTH 39 DEGREES 50 MINUTES 58 SECONDS EAST A DISTANCE OF 50.00 FEET TO A POINT ON A CURVE HAVING A RADIUS OF 175.00 FEET, THE RADIUS POINT OF WHICH BEARS SOUTH 39 DEGREES 50 MINUTES 58 SECONDS EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 153.18 FEET TO A POINT WHICH BEARS SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST FROM SAID RADIUS POINT; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST A DISTANCE OF 119.09 FEET; THENCE SOUTH 11 DEGREES 41 MINUTES 32 SECONDS EAST A DISTANCE OF 51.06 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST A DISTANCE OF 55.17 FEET TO THE POINT OF CURVE OF A CURVE HAVING A RADIUS OF 575.00 FEET, THE RADIUS POINT OF WHICH BEARS SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST; THENCE EASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 140.50 FEET TO A POINT WHICH BEARS NORTH 14 DEGREES 00 MINUTES 00 SECONDS EAST FROM SAID RADIUS POINT; THENCE SOUTH 00 DEGREES 41 MINUTES 31 SECONDS WEST A DISTANCE OF 140.54 FEET TO THE SOUTH LINE OF SAID SOUTHEAST QUARTER SECTION; THENCE SOUTH 89 DEGREES 18 MINUTES 29 SECONDS EAST ALONG SAID SOUTH LINE A DISTANCE OF 556.91 FEET TO THE BEGINNING POINT.

This Instrument Recorded 4-12-1993  
Sharon K. Cherry, Recorder, Hamilton County, IN

9314500

**DELAWARE CROSSING****RULES AND REGULATIONS***Effective January 26, 1995*

**HOMEOWNERS ASSOCIATION:** This document is not all inclusive and is to serve as a general guideline. For the complete and detailed descriptions of the covenants, refer to your copy of the Declaration of Covenants, Conditions and Restrictions for Delaware Crossing. If you do not have a copy, one can be obtained from any of the homeowners board members.

Purchase of your home in Delaware Crossing automatically includes you in the governing body of the Delaware Crossing community, legally known as the Delaware Crossing Homeowners' Association Inc (Association). This Association was established during the initial phase of construction and homeowners are assessed annually. The Association owns and maintains the common areas including the lakes, arboretum, and entryways. The Association collects a service fee from all homeowners and disburse funds related to the maintenance and ownership of these areas. You will receive a copy of the proposed Association budget in December each year.

The Board of Directors of the Association consist of 5 members. The Directors are comprised of homeowners within the community. This board shall establish and assess future annual Association dues.

Your rights and remedies as a member of the Association are fully described in the Declaration and related By-laws and Articles of Incorporation, a copy of which you should have received. Any amendments will be forwarded to all homeowners at time of acceptance.

**TERM AND ENFORCEMENT:** These Covenants shall be in full force and effect for a period of twenty-five years from recording date. Violation of these covenants and restrictions shall be grounds for action by the Association.

**ZONING AND PLATTING:** Delaware Crossing has been platted as a subdivision in the Town of Fishers, Hamilton County with 135 homesites on approximately 30 acres. The property of within the PD zoning classification and land use is governed by specific ordinances adopted by the Town of Fishers.

**ZONING OF ADJACENT PROPERTY:** The property to the north and west of Delaware Crossing is part of the Exit 5 business park developed by Sunbeam Corporation. This park is within the PD zoning district and is subject to strict controls of building quality, landscaping and setbacks. The property to the south is Delaware Pointe, which is a residential neighborhood developed by C.P. Morgan under PD zoning ordinance. The property to the east is undeveloped property that is zoned R-2 under the Noblesville zoning ordinance for single family residential development.

**PLAT RESTRICTIONS AND DECLARATION:** The Plat Restrictions and Declaration of Covenants protect your property value and govern the subdivision. The restrictions and covenants are both recorded documents and homeowners accept their title subject to these documents. Please review those documents as they specify various land use restrictions, many of which are repeated below.

**ARCHITECTURAL CONTROL COMMITTEE:** The Delaware Crossing Architectural Control Committee shall generally have the duty to see that your neighborhood remains an attractive community. Any homeowner alterations or improvements of any type or kind after the initial construction such as buildings, fencing, or exterior painting requires Committee approval. However, no

approval is required for landscaping and repainting in the same color. The Committee may require a set of plans and specs which set forth the color and type of materials to be used. The Committee has an objective that the design or color scheme of a proposed improvement be in harmony with the general surroundings of the lot or with the adjacent buildings or structures, including trim, siding, roof, and brick colors. The Committee in its reasonable judgment wants the improvements to be architecturally in the best interest, welfare, or rights of all owners.

**EASEMENTS:** Various easements have been granted within Delaware Crossing to The Town of Fishers, The Hamilton County Drainage Board, and utility companies. These easements have been recorded and will be listed on your owner's title insurance commitment which you received at closing.

**OWNERSHIP:** Each homeowner in Delaware Crossing owns their own lot. Some homes share in the ownership of a common driveway including a landscaped island. This area, which must be maintained jointly in accordance with the Declaration and Plat Restrictions, is referred to as a "cul-de-loop", and designed as "limited common area" on the recorded plat.

**BUILDING SEPARATION:** The minimum distance between houses measured between foundation wall plates (block) shall be ten (10) feet.

**PATIO EASEMENTS:** Where a unit is constructed with the patio on the side, the owner shall have an exclusive easement of the use of the area extending from their exterior wall where the patio is located to the exterior non-patio (blank) wall of the adjacent home. No fencing other than installed by Developer is allowed in this area without approval of the owners and the Architectural Control Committee.

**MAINTENANCE OF ZERO WALL:** The side of the home which has no lower windows is normally set approximately on the lot line, hence the name, zero-lot-line homes. The owner of this home is granted in the recorded plat covenants a 4-foot access easement upon the adjoining lot for maintenance and for encroachments by walls, eaves, roof overhangs, gutters and the like.

**SIDE YARD FENCE:** In order to enhance the street appearance of all patio homes, one 8' section of fence on the patio (living side if patio is at rear of each home) was installed during construction. This section of fence is placed normally near the front half of the home and is painted to match other fences in your community. If you desire additional fencing in the rear of your home, please submit the appropriate information to the Architectural Control Committee.

**UTILITIES:** The main water lines and fire hydrants are owned and maintained by the Indianapolis Water Company. Electric service is provided by Public Service Indiana and gas service is provided by Indiana Gas. All streets, except driveways and common driveways (limited common areas), are dedicated to The Town of Fishers. The sewer lines, excluding laterals from each house to the main, are also dedicated to The Town of Fishers for future maintenance. These items also will be maintained by The Town of Fishers.

**DRIVEWAYS:** All driveways were paved by the builder at the time of original construction. Maintenance of driveways, including any resurfacing or repaving, shall conform with and be uniform to the surface provided at the time of original construction.

**SIDEWALKS:** Sidewalks will be constructed along both sides of the dedicated streets.

**PARKING:** Off-street parking is available in the driveways and garages of each home. The public streets are wide enough to permit parking also, subject to the control and ordinance of The Town of Fishers.

**COMMON AREAS:** There are areas of ground designated on the plat as Common Areas. These are dedicated to the Association for maintenance and repair of the lakes, landscaping, and any other improvements upon these areas. The main entryways, and fountains, are also maintained by the Association.

**FENCES:** No fence shall be higher than six (6) feet. Chain link fences are permitted with Board approval, and must have black or brown finish. Fencing shall be placed ten feet behind the corner of the residence the fence will be built on. All wood fences shall be painted or stained in a color compatible with the color of the residence within one year of construction.

**TEMPORARY STRUCTURES:** No trailers, shacks, outhouses, detached storage or tool sheds of any kind shall be erected or situated on any lot in the community except temporarily by a builder during construction.

**BASKETBALL GOALS:** Portable goals are permitted within the community since they can be moved from sight and will be taken from the property when the owners move. Permanent posts and goals mounted on residences will not be permitted.

**STORAGE SHEDS:** Detached storage sheds are not permitted within Delaware Crossing.

**MAIL BOXES:** The mailboxes initially installed by the builder include a newspaper holder. No additional newspaper boxes or attachments may be added to the mailbox structure. Mailbox style may not be changed without prior written approval by the Board of Directors.

**SIGNS:** Temporary signs (2 weeks or less) are permitted within the community. Signs may be used to advertise garage sales, remodeling work, etc; they may not be used to promote an owner-operated business out of the home. "For Sale" signs are allowable for the period of time required to sell the property. Owners may have more than 1 sign per lot.

**LIGHTS:** "Dusk to Dawn" type lights were installed by the builder and must be maintained on each lot by the homeowner.

**ANTENNAS AND SATELLITE DISHES:** No antennas shall be allowed to extend higher than five (5) feet above the roofline on the exterior of homes in the community. Satellite dishes will be permitted based on the following guidelines:

1. Requires written approval from the Board prior to installation.
2. Must be 24" in diameter or less.
3. May not be visible from the street.
4. May not be placed on the roof.
5. If placed in the front or side yard, landscaping or other disguising forms must be used.

**STORAGE TANKS:** Any gas or oil tanks used in connection with a lot shall be either buried or located in the garage or house such that they are completely from public view.

**GUTTERS AND DOWNSPOUTS:** All gutters and downspouts in this subdivision shall be painted or of a colored material other than gray galvanized.

**AWNINGS AND PATIO COVERS:** No metal, fiberglass or similar type material awnings or patio covers shall be permitted in the community.

**SWIMMING POOLS:** No above-ground swimming pools shall be permitted.

**SOLAR HEAT PANELS:** No solar heat panels shall be permitted on the roofs of any structures in the subdivision and any solar panels must be concealed from view of neighboring lots and streets.

**MAINTENANCE:** The owner of any lot shall at all times maintain his lot and his home so that it is attractive. This means grass and weeds shall be mowed, all debris removed, and anything else that would make the improvements appear unsightly.

**ANIMALS:** Usual household pets are permitted but shall be kept reasonably confined so as not to become a nuisance and are subject to ordinances in effect by the Town of Fishers and Hamilton County.

**VEHICLE PARKING:** No campers, trailers, large trucks, recreational vehicles, boats or disabled vehicles shall be parked on any street or lot in Delaware Crossing unless parked inside the garage.

**DITCHES OR SWALES:** Each homeowner who has any part of an open storm drainage ditch or on his lot has the responsibility to keep such continuously unobstructed and in good repair.

**WASTE COLLECTION:** Waste collection will be the responsibility of each homeowner to arrange with a private waste disposal company.



**Delaware Crossing H.O.A.  
Request for Change**

**6 Project Schedule**

- a The project will be done by:  Homeowner  
 Contractor's Name \_\_\_\_\_  
 Both

b Please indicate the approximate time needed to complete the project, subsequent to the Board approval \_\_\_\_\_

c Please indicate any building permits required: \_\_\_\_\_

Note: All submitted materials shall remain the property of the Association. A copy of this Request for Change will be returned to the Homeowner within ten (10) working days with approval status for your records

I hereby acknowledge that I have read and understand the Architectural Control Standards set forth by the Board, as well as the Declaration of Covenants and Restrictions

Homeowner Signature: \_\_\_\_\_

**II. Committee Action:**

- Approved as Submitted
- Deferred
- Additional Information Required \_\_\_\_\_
- Other \_\_\_\_\_
- Denied

Comments: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_  
President, Delaware Crossing H.O.A. Inc