

BY-LAWS
OF
EDEN HOMES ASSN., INC.

ARTICLE I

NAME & LOCATION

Section 1. Name. The name of the corporation is EDEN HOMES ASSN., INC., hereinafter referred to as the "Association".

Section 2. Location. The principal office of the corporation shall be located at 1001 H Paradise Ct., Greenwood, Indiana 46142.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to EDEN HOMES ASSN., INC., its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real properties described in the Declaration of Covenants, Conditions and Restrictions, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Limited Common Area" involves those areas within the Common Area that are designated on the recorded plat as reserved for the predominant use of certain Lots and Lot owners.

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

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to C.E. Walters and D.F. Cummins, its successors and assigns if such successor or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose development.

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

ARTICLE III

ASSOCIATION MEMBERS

Section 1. Membership. "Member" shall mean and refer to each person entitled to membership as provided in the Declaration.

Section 2. Place of Meeting. All meetings of Members of the Association shall be held within the State of Indiana and County of Johnson at such place as may be determined by the Board of Directors and specified in the notices or waivers of notice thereof or proxies to represent Members at such meetings.

Section 3. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year from the date of

incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month each year thereafter, at the hour of 7:30 o'clock, P.M. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 4. Special Meetings. Special meetings of the Members may be called at any time by the President or by a majority of the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all the votes of the Class A Membership.

Section 5. Notice of Meetings. Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days prior to such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. Notice of any meeting of the Members may be waived in writing by any Member if the waiver sets forth in reasonable detail the purpose or purposes for which the meeting is called and the time and place thereof. Attendance at any meeting in person or by proxy shall constitute a waiver of notice of such meeting.

Section 6. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 7. Proxies. At all meeting of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 8. Voting Rights. There shall be one person with respect to each Lot who shall be entitled to vote at any meeting of the Members. Such persons shall be known as a "Voting Member". Such Voting Member may be the owner or one of the group composed of all the Owners of a Lot, or may be some person designated by such Owner or Owners to act as proxy on his or their behalf and who need not be an Owner. Any or all of such Voting Members may be present at any meeting of the Voting Members and may vote or take any action as a Voting Member, either in person or by proxy. Declarant (or its nominee) may exercise the voting rights with respect to any Lot owned by it. The Association shall have two (2) classes of Voting Members, as defined in the Declaration and with voting rights as detailed in said Declaration.

ARTICLE IV

BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of nine (9) Directors, who need not be members of the Association, excepting the initial Board of Directors shall consist of three (3) members.

Section 2. Term of Office. At the third annual meeting, the members shall elect three (3) directors for a term of one (1) year, three (3) directors for a term of two (2) years and three (3)

directors for a term of three (3) years; and at each annual meeting thereafter, the members shall elect three (3) directors for a term of three (3) years.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

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

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

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

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

ARTICLE VI

MEETINGS OF DIRECTORS

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

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) Directors, after not less than three (3) days notice to each Director.

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

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

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

- (a) Adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) Suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days for infraction of published rules and regulations;
- (c) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (d) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- (e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

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

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;
- (b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) As more fully provided in the Declaration, to:
 - i. fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period;
 - ii. send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - iii. foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.
- (d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

- (e) Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- (g) Cause the Common Area to be maintained.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Offices. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

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

Section 3. Term. The officers of this Association shall be elected annually by the Board, and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

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

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

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

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

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

PRESIDENT

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

VICE-PRESIDENT

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

SECRETARY

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

TREASURER

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

ARTICLE IX

COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes.

ARTICLE X

BOOKS AND RECORDS

Section 1. Books and Records, In General. The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

Section 2. Receipts and Expenditures. The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Properties as defined in the Declaration, specifying and itemizing the maintenance and repair expenses of the Properties and other expenses incurred. Such records and the vouchers authorizing the payments shall be available for inspection by any Owner or representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner. Upon ten (10) days notice to the Board and payment of a reasonable fee, any Owner shall be furnished a statement in recordable form of his account, setting forth the amount of any unpaid assessments or other charges due and owing from such Owner, and such amount shall be binding upon the Board and the Association, and any mortgage or grantee of such Owner furnished with such statement shall not be liable for, and the Lot of such Owner shall not be conveyed subject to a lien for, any unpaid assessment in excess of the amount set forth in such statement.

ARTICLE XI

EXECUTION OF INSTRUMENTS

Section 1. Checks, Drafts, Etc. All checks, drafts, bills of exchange or other orders for the payment of money, obligations, notes or other evidences of indebtedness of the Association shall be

signed or endorsed by such officer or officers, employee or employees of the Association as shall from time to time be designated by the Board of Directors.

Section 2. Contracts. All contracts, agreements, deeds, conveyances, mortgages and similar instruments authorized by the Board of Directors shall be signed, unless otherwise directed by the Board or required by law, by the President and attested by the Secretary.

ARTICLE XII

ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of interest applicable to judgments in Indiana, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

ARTICLE XIII

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

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

ARTICLE XIV

MISCELLANEOUS

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 2. The Indiana Not-For-Profit Corporation Act of 1971. The provisions of the Indiana Not-For-Profit Corporation Act of 1971, as amended, are applicable to any of the matters not herein specifically covered by these By-Laws, and are hereby incorporated by reference and made a part of these By-Laws.

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of the Eden Homes Assn., Inc., Association, a Indiana corporation, and,

THAT the foregoing By-Laws constitute the original By-Laws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 7th day of June, 1982.

I HEREBY VERIFY SUBJECT TO PENALTIES OF PERJURY THAT THE FACTS
CONTAINED HEREIN ARE TRUE.


Secretary

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This Instrument Prepared By:
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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by C.E. Walters and D.F. Cummins, (hereinafter referred to as "Declarant"). Being Eden Estates, Section II

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the City of Greenwood, County of Johnson, State of Indiana, which is more particularly described in Exhibit "A", attached hereto and by this reference incorporated herein.

NOW, THEREFORE, Declarant hereby declares that all of the properties described in Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to EDEN HOMES ASSN., INC., an Indiana not-for-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

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

Section 4. "Common Area" shall mean all the real estate (including improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The conveyance of all Common Areas used for vehicular or easement purposes will occur simultaneously with the conveyance by Declarant of the first Lot to another titleowner, with the balance of Common Area to be conveyed at a later date when at least nineteen (19) lots are conveyed to other titleowners with no assessments under Article 4 to be assessed until after all Common Areas are conveyed to the Association.

Section 5. "Declarant" shall mean and refer to C.E. Walters and D.F. Cummins, their successors and assigns as a Declarant.

Section 6. "Lot" shall mean and refer to any parcel of land so designated as shown upon any recorded plat of the Properties, but excludes the balance as Common Area. With respect to any single family dwelling unit that may be constructed on a part of more than one of such parcels, however, "Lot" shall mean and refer to the real estate conveyed in connection with such dwelling unit.

Section 7. "Building" shall mean and refer to any multi-family dwelling unit that may be constructed on a part of or on more than one (1) Lot.

Section 8. "Dwelling" shall refer to each one of the single family portions of any Building.

Section 9. "Limited Common Area" means and includes those common areas designated on the recorded plat as reserved for the predominant use of certain Lots and Lot owners.

Section 10. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

ARTICLE II

ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. Subject to the rights of Declarant reserved herein, the operation and management of the Common Area shall be by the Association.

Section 2. The Association shall have two (2) classes of Membership.

(a) Class A. Every person, group of persons or entity, other than the Declarant, who is a record Owner of a fee interest in any Lot which is or becomes subject, by covenants of record, to assessment by the Association, shall automatically be a Class A Member of the Association; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. A Class A Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.

(b) Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B Membership shall cease and be converted to a Class A Membership on the happening of the following event:

(i) Whenever the total votes outstanding of Class A Membership equal the total votes outstanding in Class B Membership, or

(ii) On the 1st day of June, 1986.

Section 3. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association.

Section 4. Further Powers. In addition to all other powers granted to the Association by the Declaration, its Articles of Incorporation and By-Laws, the Association, through its Board of Directors, may elect to enter into certain agreements providing for:

- (a) security services upon the Properties;
- (b) assessment billing services;
- (c) professional management services;
- (d) snow removal services; and,
- (e) trash removal services.

The costs associated with such contracts shall be a common expense of the Association to be included in the regular common assessments as levied by the Association.

ARTICLE III

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area

which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to promulgate reasonable rules and regulations governing the use of the Properties;

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

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

(d) The rights of Declarant reserved in this Declaration.

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

Section 3. Association's Easement for Maintenance, Repair and Access. Certain utility lines, sewer and other facilities, and other improvements will be located on one Lot, yet serve other Lots or the Common Area. The Association and any member thereof whose enjoyment of the use and occupancy of his Lot is affected thereby, shall have an easement thereto and shall have the right at reasonable times and at any time in case of emergency, to go upon any other Lot for the purpose of maintaining or causing to be maintained or repaired any party walls, utility lines, sewer or other facilities which serve more than one Lot. An easement is also established with respect to the Common Areas to applicable municipal government for municipal and private services such as fire and police protection, emergency medical services and trash removal.

The Association shall have an easement for access to all Lots for ingress and egress as required by its officers, directors, employees and their agents and independent contractors, in order to perform its obligations and duties as set forth in this Declaration. This easement is also reserved for the benefit of the Declarant so long as Declarant owns any Lot or is liable under any builder's warranties.

Section 4. Reservation By Declarant. Declarant reserves the following rights in the Common Areas until Declarant ceases to have Class B Membership:

(a) An easement over and upon the Common Elements and upon lands appurtenant to the Lots for the purpose of completing improvements for which provision is made in this Declaration where access thereto is otherwise not reasonably available;

(b) An easement over and upon the Common Areas for the purpose of making repairs required pursuant to this Declaration or contracts of sale made with Lot purchasers;

(c) The right to maintain in the Common Areas sales and management offices, model units and advertising signs.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessment: Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed

therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Regular monthly or annual assessments or charges; (2) special assessments for maintaining limited common areas; and (3) special assessments for capital improvements and operating deficits; such assessments to be established and collected as hereinafter provided. ANY LOT THAT HAS NOT BEEN CONVEYED BY DECLARANT SHALL BE ASSESSED AT A RATE OF TWENTY-FIVE PERCENT (25%) OF THE OTHER LOTS.

The regular and special assessments, together with interest, costs, and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area and other purposes as specifically provided herein.

Section 3. Maximum Regular Assessment: Until January 1 of the year immediately following the conveyance of the Common Area to the Association, the maximum annual assessment shall be Four Hundred Eighty Dollars (\$480.00) per Lot.

(a) From and after January 1 of the year immediately following the aforesaid conveyance, the maximum annual assessment may be increased each year not more than Twenty-Five percent (25%) above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the aforesaid conveyance, the maximum annual assessment amount specified above in the first sentence of this Section may be changed by a vote of the members, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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

Section 4. Special Assessment for Maintaining Limited Common Areas and For Capital Improvements and Operating Deficits:

(a) For Maintaining Limited Common Areas. The Board of Directors may fix special assessments for maintaining Limited Common Areas where in their sole discretion, such assessments are necessary in addition to an annual assessment but such special assessments shall only be allocated for such purpose.

(b) For Capital Improvements and Operating Deficits. In addition to the assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association may from time to time incur, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized under Sections 3 and 4: Written notice of any meeting necessary for the purpose of taking any action authorized under Section 3 or 4 shall

be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment: Both annual and special assessments for capital improvements and operating deficits must be fixed at a uniform rate for all Lots not owned by the Declarant and may be collected on a monthly basis. Special assessments for maintenance of Limited Common Areas shall be uniform, but only as to Lots that are parallel and abut to such Limited Common Areas. Lots owned by the Declarant shall be assessed at a rate equal to twenty-five percent (25%) of the regular and special assessment on all other Lots. DECLARANT ACKNOWLEDGES RESPONSIBILITY FOR THE MAINTENANCE OF ALL COMMON AREAS (INCLUDING LIMITED COMMON AREAS) UNTIL SUCH TIME AS THE COMMON AREAS ARE CONVEYED TO THE ASSOCIATION.

Section 7. Date of Commencement of Monthly Assessments: Due Dates: The monthly assessment provided for herein and the insurance assessment provided for in Article 8 shall commence as to each Lot on the first day of the first month following the conveyance of of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix any increase in the amount of the monthly assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form, signed by an officer of the Association, setting forth whether the assessments on specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association on the date of its issuance.

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association: If any assessment (or monthly installment of such assessment, if applicable) is not paid within thirty (30) days of the date when due (pursuant to Section 7 hereof), then the entire unpaid assessment shall become delinquent and shall become, together with such interest thereon at the rate of twelve percent (12%) per annum from the due date, and cost of collection thereof as hereinafter provided, a continuing lien on such Lot, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, from the due date, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided and a reasonable attorney fee to be fixed by the court, together with the costs of this action.

No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages: The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of Indiana, shall be exempt from the assessments created herein, except no land or improvements elevated to dwelling use shall be exempt from said assessments.

ARTICLE V

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Dwelling upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, to the extent not inconsistent with the provisions of this Article, the general rules of law of the State of Indiana regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribute Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VI

MAINTENANCE

Section 1. Maintenance by Owners. The owner of each Lot shall furnish and be responsible for, at his own expense, all the maintenance, repairs, decorating and replacements within his residence, including the heating and air conditioning system and any partitions and interior walls. Maintenance, repairs and replacements of the refrigerators, ranges and other kitchen appliances and lighting fixtures shall also be at the expense of each Owner. He further shall be responsible for the maintenance, repair and replacement of all

windows in his residence and also the doors leading into the residence, and any and all other maintenance, repair and replacements of the improvements on his Lot unless otherwise provided herein.

If, because of the negligent act or omissions of an Owner, or of a member of his family, his household pet, a guest or other authorized occupant or visitor of such Owner, damage shall be caused to the Common Area or to a Lot owned by others, then such Owner shall pay for such damage, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having a waiver of subrogation clause. Any such cost to be paid by the Owner shall be a special assessment against such Owner and his Lot.

To the extent that equipment, facilities and fixtures within any Lot shall be connected to similar equipment, facilities or fixtures affecting or serving other Lots or any Common Area, then the use thereof by the Owner of such Lot shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association, shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to the Common Area or any part thereof, or any equipment, facilities or fixtures affecting or serving other Lots or any Common Area.

Section 2. Maintenance of Common Area. (Including Limited Common Areas) The Association shall be responsible for the maintenance, repair and replacement of all the Common Area and improvements thereon. The Association shall also be responsible for such maintenance, repairs and replacements as may be required for the bringing of utility services to the Lots.

Section 3. Exterior Maintenance Obligations of Association with Respect to Lots. In addition to maintenance upon the Common Area, the Association shall provide exterior surface maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, and other exterior improvements. Such exterior maintenance shall not include glass surfaces, doorways, windows and window frames. The Association's obligation shall include snow removal from the Common Areas used as private streets and shall include grass cutting on each Lot. Trash removal shall be each Lot Owner's responsibility, but the Association reserves the right to assume the responsibility of contracting for a scavenger service for trash removal for all Lot Owners and/or establishing rules and regulations throughout the Properties concerning trash and its removal.

ARTICLE VII

MORTGAGEE'S RIGHTS

Section 1. Notice of Rights of Mortgagee of a Lot. Upon written request by a mortgagee to the Association, Mortgagee of a Lot shall be entitled to receive written notification of any default, not cured within sixty (60) days after its occurrence, by the Owner of the Lot of any obligation of the Owner under the Declaration, the By-Laws of the Association or the Articles of Incorporation of the Association. The request for notification can be made by any mortgagee of a Lot, its successor or assign, The notification shall be sent not later than the 65th day after the occurrence of an uncured default.

Section 2. Right to Examine Books and Records. Mortgagees, their successors or assigns, shall have the right to examine the books and records of the Association.

Section 3. Taxes and Insurance. First mortgagees of Dwellings may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies, or

secure new hazard insurance coverage on the lapse of a policy, for such Common Area and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of all first mortgagees duly executed by the Association, and an original or certified copy of such agreement shall be possessed by the first mortgagees.

Section 4. Insurance Proceeds and Condemnation Awards. No provision of the constituent documents shall give a Lot owner or any other party, priority over any rights of first mortgagees of Dwellings with the Properties pursuant to their mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Areas.

ARTICLE VIII

INSURANCE

Section 1. Casualty Insurance on Insurable Common Area. The Association shall keep all insurable improvements and fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss by damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage, with respect to the Common Area, shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are Common Expenses included in the Common Assessments made by the Association.

In addition to casualty insurance on the Common Area, the Association, through the Board of Directors, may elect to obtain and continue in effect, on behalf of all Owners, adequate blanket casualty and fire insurance in such form as the Board of Directors deems appropriate in an amount equal to the full replacement value, without deduction for depreciation or coinsurance, of all the Dwelling Units, including the structural portions and fixtures thereof, owned by such Owners. Insurance premiums from any such blanket insurance coverage, and any other insurance premiums paid by the Association, shall be a Common Expense of the Association to be included in the regular Common Assessments of the Owners, as levied by the Association. The insurance coverage with respect to the Dwelling Units shall be written in the name of, and the proceeds thereof shall be payable to, the Association as Trustee for the homeowners.

Such master casualty insurance policy and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, its Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms, that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners as hereinafter premittted.

Section 2. Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts, if any, as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Association's

obligations under this Declaration, its Articles of Incorporation and By-Laws.

The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Association. However, no person, other than the Association, the Owner of a Lot, or the mortgagee, where permitted by the mortgage, shall have the right to place hazard or liability insurance for that Lot, nor may the Association require an Owner to place insurance through a particular company or agent or require its approval of such policies.

Section 3. Monthly Assessment for Insurance. The premiums for all such insurance hereinabove described shall be paid by the Association and the pro-rata costs thereof shall become a separate monthly assessment to which each Lot shall be subject under the terms and provisions of Article 4. Each Owner shall prepay to the Association at the time his Lot is conveyed to such Owner an amount equal to thirteen (13) monthly insurance assessments and shall maintain such prepayment account at all times. The Association shall hold such funds in escrow for the payment for the purchase of insurance as herein provided. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner of Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

Section 4. Distribution to Mortgagee. In no event shall any distribution of proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event, any remittances shall be to the Owner and his Mortgagee jointly.

Section 5. Additional Insurance. Each Owner shall be solely responsible for and may obtain such additional insurance as he deems necessary or desirable at his own expense affording coverage upon his personal property, the contents of his residence (including, but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by him) and his personal property stored elsewhere on the Properties, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association. Each Owner may obtain casualty insurance at his own expense upon his Lot but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds which would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph, due to proration of insurance purchased by an Owner under this paragraph, the Owner agrees to assign the proceeds of his latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

Section 6. Casualty and Restoration. Damage to or destruction of any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose.

Section 7. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area Improvements, the Association shall repair or replace the same from the

insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Reconstruction Assessment against all Lot Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Common Assessments made against such Lot Owners.

In the event that the Association is maintaining blanket casualty and fire insurance on the Dwelling units on the Lots in the Properties, the Association shall repair or replace the same from the insurance proceeds available.

For purposes of Section 6 above, repair, reconstruction and restoration shall mean construction or rebuilding of the Building or buildings to as near as possible the same condition as it existed immediately prior to the damage or destruction and with the same type of architecture.

Section 8. Surplus of Insurance Proceeds. In the event that there is a surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums shall be distributed to the Owners of the Building affected and their Mortgagees who are the beneficial owners of the fund. The action of Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing wilful and malicious damage.

Section 9. Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board of Directors in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the property which may have been damaged or destroyed.

ARTICLE IX

HARMONY AND ENVIRONMENTAL CONTROLS

Section 1. Architectural Control Committee. Except for original construction or as otherwise in these covenants provided, no building, fence, sidewalk, drive, walk or other structure shall be created, placed, altered or maintained upon the Properties nor shall an exterior addition to or change (including any change in color) or alteration therein be made until the proposed building plans, specifications, exterior color and finish, plot plans (showing the proposed location of such building or structure, drives and parking areas), general contractor and all subcontractors, and construction schedule shall have been submitted to and approved in writing by the Board of Directors of the Association, or by any architectural control committee composed of not less than three (3) members appointed by said Board of Directors. Refusal of approval of plans, location or specification by said Board of Directors or architectural control committee may be based upon any ground, including, without limitation, lack of harmony of external design, color, location or relation to surrounding structures and topography and purely aesthetic considerations which, in the sole and uncontrolled discretion of said Board of Directors or architectural control committee shall seem sufficient. No alterations may be made in such plans after approval by the Board of Directors or architectural control committee is given except by and with their prior written consent. One copy of all plans, specifications and related data shall be furnished to the Board of Directors or architectural control committee for its records. In the event the Board of Directors, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with. Notice of disapproval shall be by certified mail, return receipt requested.

Section 2. Fences. Except for original construction, no fence, hedges or wall shall be constructed upon the Properties

without the prior written approval of the Architectural Control Committee.

Section 3. Prohibited Uses and Nuisances. Except for the activities of the Declarant during original construction:

(a) No noxious or offensive trade or activity shall be carried on upon any Lot or within any Dwelling situated upon a Lot, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners of the Lots.

(b) The maintenance, keeping, boarding and/or raising of animals, livestock or poultry of any kinds, regardless of number, shall be and is hereby prohibited on any Lot or within any Dwelling situated upon the Properties, except that this shall not prohibit the keeping of dogs, cats and/or caged birds or other unobjectionable domestic pets provided they are not kept, bred or maintained for commercial purposes.

(c) No burning of any trash and no accumulation or storage or litter, new or used building materials, or trash of any kind shall be permitted on any Lot.

(d) Except as hereinelsewhere provided, no junk vehicle, motorcycles, commercial vehicle, trailer truck, camper, camp truck, house trailer, boat or the like, shall be kept upon the Properties (except in enclosed garages) nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of its Board of Directors, provide and maintain a suitable area designated for the parking of such vehicles or the like.

(e) In order to facilitate the free movement of passing vehicles, no automobiles belonging to Owners shall be parked on the paved portion of any joint driveway or streets, public or private, except during bona fide temporary emergencies.

(f) Except as may be approved in writing by the Board of Directors or their designated committee, no structure of a temporary character, trailer, tent, shack, barn or other outbuilding shall be used on any portion of the property at any time.

(g) Except for entrance signs, directional signs, community "theme" and the like, no signs of any character shall be erected, posted or displayed upon, in or about any Lot situated upon the Properties, unless specifically permitted by a written resolution adopted by the Board of Directors.

(h) No structure, planting or other material other than driveways or sidewalks shall be placed or permitted to remain upon any portion of the Properties which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels.

(i) Garage doors and the doors of any other storage room or the like shall be maintained in a closed position when not being used for immediate ingress and egress.

(j) No outside television or radio aerial or antenna, or other aerial or antenna, for reception or transmission shall be maintained upon any Lot without the prior written consent of the Board of Directors unless such structure is a part of the basic design of a Dwelling or group of Dwellings.

(k) There shall be no violation of any rules for the Common Area which may from time to time be adopted by the Board of Directors or promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in the By-Laws, authorized to adopt such rules.

(l) In addition to the foregoing restriction, all restriction of any recordation which involves the use of the Propertie are incorporated by reference herein as restrictions of this Declaration.

(m) The Property shall be developed and used only for multi family purposes.

(n) Each dwelling unit shall be legally structured in such a manner as will permit it to be individually sold as a part of a permanent home community.

Section 4. Right of Association to Remove or Correct Violations of this Article. The Association may, in the interest of the general welfare of all the Owners of the Lots and after reasonable notice to the Owner, enter upon any Lot or the exterior of any Dwelling at reasonable hour on any day for the purpose of removing or correcting any violations or breach or any attempted breach thereof.

ARTICLE X

GENERAL PROVISIONS

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

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

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

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

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of whichever governmental agencies financing is involved including but not limited to FHA/VA: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 7th day of June, 1982.

C.E. Walters and D.F. Cummins
Declarant

By: 



State of Indiana :
:
County of Johnsonx:

Before me, a Notary Public in and for said County and State, personally appeared C. E. Walters and D. F. Cummings, who acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions, and who, having been duly sworn, stated that the representations contained therein are true.

Witness my hand and seal this 7th day of June, 1982.

My Commission Expires:

January 18, 1984



V. Jean McCarty
V. Jean McCarty-Notary Public

County of Resident: Johnson

This Instrument Prepared By:
Raymond Good
GOOD, BERTRAM & BULLINGTON
Attorneys at Law
5972 Madison Avenue
Indianapolis, Indiana 46227
(317) 783-1321
#147

Exh A

LEGAL DESCRIPTION

EDEN ESTATES SECTION II

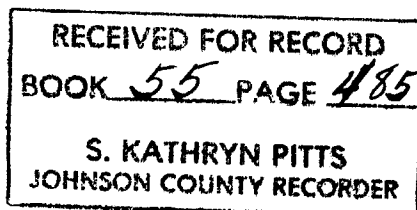
Part of the Southwest Quarter of the Southwest Quarter of Section 34, Township 14 North, Range 4 East of the Second Principal Meridian located in Pleasant Township, Johnson County, Indiana, described as follows:

Commencing at the Southwest corner of the Southwest Quarter of said Section; thence North 88 degrees 15 minutes 06 seconds East 933.97 feet on and along the South line of said Section; thence North 00 degrees 10 minutes 43 seconds East 434.17 feet to the North right-of-way line of Paradise Court being the POINT OF BEGINNING of this description thence South 88 degrees 37 minutes 00 seconds West 46.64 feet on and along said right-of-way line; thence Southwesterly on a nontangential curve to the left which has a radius of 55.00 feet, a chord bearing of South 88 degrees 37 minutes 00 seconds West, and a curved distance of 152.68 feet on and along said right-of-way line; thence South 88 degrees 37 minutes 00 seconds West 288.70 feet on and along said right-of-way line; thence Northwesterly on a tangential curve to the right which has a radius of 1884.86 feet, a chord bearing of North 88 degrees 44 minutes 00 seconds West, and a curved distance of 174.37 feet on and along said right-of-way line; thence North 86 degrees 04 minutes 59 seconds West 54.76 feet on and along said right-of-way line; thence Northwesterly on a tangential curve to the left which has a radius of 425.00 feet, a chord bearing of North 86 degrees 14 minutes 08 seconds West, and a curved distance of 2.26 feet on and along said right-of-way line; thence North 03 degrees 55 minutes 01 second East 167.86 feet; thence North 87 degrees 21 minutes 53 seconds West 231.08 feet to the East right-of-way line of Emerson Avenue; thence Northeasterly on a nontangential curve to the left which has a radius of 1198.16 feet, a chord bearing North 04 degrees 34 minutes 43 seconds East, and a curved distance of 176.54 feet on and along said right-of-way line; thence North 00 degrees 21 minutes 26 seconds East 139.61 feet on and along said right-of-way line; thence South 89 degrees 38 minutes 34 seconds East 880.47 feet; thence South 00 degrees 10 minutes 43 seconds West 485.06 feet to the point of beginning and containing 9.07 acres.

Subject to all legal right-of-ways and easements of record.

As per Plat thereof recorded in Plat Book 10, Page 36, in the Office of the Recorder of Johnson County, Indiana.

AUG 25 3 54 PM '82



DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by C. E. WALTERS and D. F. CUMMINS, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Johnson County, Indiana, which is more particularly described in Exhibit "A" attached hereto and by this reference made a part hereof.

NOW, THEREFORE, Declarant hereby declares that all of the properties described in Exhibit "A" shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties, their heirs, successors and assigns, having any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE IDEFINITIONS

Section 1. "Declarant" shall mean and refer to C. E. WALTERS and D. F. CUMMINS, their successors and assigns as a Declarant.

Section 2. "Association" shall mean and refer to EDEN ESTATES HOMEOWNERS ASS'N., INC., an Indiana not-for-profit corporation, its successors and assigns.

Section 3. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 4. "Properties" shall mean and refer to that certain real property described in Exhibit "A" and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 5. "Lot" shall mean and refer to any plot of land so designated as shown upon any recorded plat of the Properties, but excludes the balance as Common Area. With respect to any single family dwelling unit that may be constructed on a part of more than one of such plots, however, "Lot" shall mean and refer to the real estate conveyed in connection with such dwelling unit. An unplatted area that is part of the Properties owned by Declarant but not designated as "Common Area" shall be considered ten (10) Lots until such time as a plat is recorded in the Johnson County Recorder's office.

Section 6. "Dwelling" shall mean and refer to a single family residence erected on a Lot within the Project Real Estate.

Section 7. "Common Area" shall mean all the real estate (including improvements thereto) owned by the Association for the common use and enjoyment of the Owners; which Common Area may be conveyed by Declarant to the Association subject to the mortgage of record against same, which Declarant will keep current and non delinquent and satisfied in full when Declarant ceases to be titled to any Lot. The conveyance of all Common Areas used for vehicular or easement purposes will occur simultaneously with the conveyance by Declarant of the first Lot to another titleowner, with the balance of Common Area to be conveyed when the Class B membership converts to Class A membership as hereafter described.

Section 8. "Limited Common Area" means and includes those common areas designated on the recorded plat as reserved for the predominant use of certain Lots and Lot owners.

Section 9. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

ARTICLE II

PROPERTY RIGHTS

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

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

(b) The right of the Association to promulgate reasonable rules and regulations governing the use of the Properties;

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

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

(e) The rights of Declarant reserved in this Declaration.

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

Section 3. Association's Easement for Maintenance, Repair and Access. Certain utility lines, sewer and other facilities, and other improvements will be located on one Lot, yet serve other Lots or the Common Area. The Association and any member thereof whose enjoyment of the use and occupancy of his Lot is affected thereby, shall have an easement thereto and shall have the right, at reasonable times and at any time in case of emergency, to go upon any other Lot for the purpose of maintaining or causing to be maintained or repaired any party walls, utility lines, sewer or other facilities which serve more than one Lot. An easement is also established with respect to the Common Areas to applicable municipal government for municipal and private services such as fire and police protection, emergency medical services and trash removal.

The Association shall have an easement for access to all Lots for ingress and egress as required by its officers, directors, employees and their agents and independent contractors, in order to perform its obligations and duties as set forth in this Declaration. This easement is also reserved for the benefit of the Declarant so long as Declarant owns any Lot or is liable under any builder's warranties.

ARTICLE III

ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. Subject to the rights of Declarant reserved herein, the operation and management of the Common Area shall be by the Association.

Section 2. The Association shall have two (2) classes of Membership.

(a) Class A. Every person, group of persons or entity, other than the Declarant, who is a record Owner of a fee interest in any Lot which is or becomes subject, by covenants of record, to assessment by the Association, shall automatically be a Class A Member of the Association; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. A Class A Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.

(b) Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each Lot owner. The Class B Membership shall cease and be converted to a Class A Membership on the happening of the following event:

(i) Whenever the total votes outstanding of Class A Membership totals One Hundred Twenty Percent (120%) of the total votes outstanding in Class B Membership.

Section 3. The Owners shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

CLASS A & CLASS B MEMBERS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot (excluding the Declarant), by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for maintaining limited common areas, and (3) special assessment for capital improvements, such assessments to be established and collected as hereinafter provided. Declarant shall only be responsible for such assessments and subject to such liens whenever Declarant derives income from any Lot by virtue of a contract sale or lease thereof, or when Class B Membership converts to Class A Membership, whichever first occurs.

All sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis and shall include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas and facilities, which funds shall be used for those purposes and not for usual and

ordinary repair expenses of the Common Areas and facilities. This fund for capital expenditures shall be maintained in a separate interest bearing account with a bank or savings and loan association authorized to conduct business in the county in which the Association is established.

The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot (other than Declarant's Lots), and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them, but such delinquent accounts shall remain a lien upon the Lot subject to foreclosure.

Section 2. Purpose of Assessments. The assessments levied by the Association on a Lot shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the Dwellings situated upon the Properties.

Section 3. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein, shall commence as to all Lots on the first day of the month following the initial conveyance of the Common Area to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessment on a Lot is binding upon the Association on the date of its issuance.

Section 4. Uniform Rates of Assessment. Both annual and special assessments for capital improvements shall be fixed at a uniform rate for applicable Lots. Special assessments for maintenance to limited common areas shall be uniform, but only as to Lots that are parallel to and abut such limited common area. Annual assessments may be paid on a monthly, quarterly or semi-annual basis, but, if paid on other than an annual basis, default in the payment of any one installment, shall cause the entire unpaid assessment for the year in which the delinquency occurs to become immediately due and payable. (See Exception under Article V - Section 3).

Section 5. (a). Maximum Annual Assessment. Until June 1, 1980, the maximum annual assessment shall be Four Hundred Eighty Dollars (\$480.00). For the ensuing three (3) calendar years, because of uncertainties in usual and ordinary Common Area expenses due to the Indiana real property reassessment, rising cost of energy and other unforeseeable operating expenses, the Board of Directors of the Association may increase the assessment by a sum not to exceed Ten Percent (10%) per annum without vote of the Membership. However, any such increases shall be documented by normal accounting procedures and distributed to the Membership to demonstrate that such increases are attributable to increases in operating expenses and no portion of such increases shall inure to the benefit of the Declarant and the moneys received shall be entirely expended on Association expense.

(b) From and after The First of the year immediately following the conveyance of the First Lot to an Owner, the maximum annual assessment per Lot may be increased above the maximum percentage determined in Paragraph (a) of this Section 5 by a vote of two-thirds (2/3) of the Class A Members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

Section 6. Special Assessments for Maintaining Limited Common Areas and for Capital Improvements.

(a) For Maintaining Limited Common Areas. The Board of Directors may fix special assessments for maintaining Limited Common Areas where in their sole discretion, such assessments are necessary in addition to an annual assessment allocated for such purpose.

(b) For Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of Class A Members.

Section 7. Notice and Quorum for any Action Authorized Under Section 5 and 6. Written notice of any meeting called for the purpose of taking any action authorized under Sections 5 or 6 shall be sent to all Class A and Class B Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Class A Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Class A Membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. If any assessment (or monthly installment of such assessment, if applicable) is not paid on the date when due (pursuant to Section 3 hereof), then the entire unpaid assessment shall become delinquent and shall become together with such interest thereon and cost of collection thereof, as hereinafter provided, a continuing lien on the relevant property, binding upon the then owner, his heirs, devisees, successors and assigns. The personal obligation of the then owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the maximum permissible rate allowed under Indiana law, and the Association may bring an action at law against the owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action.

No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for in this Article shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

MAINTENANCE

Section 1. Maintenance by Owners. The owner of each Lot shall furnish and be responsible for, at his own expense, all the maintenance, repairs, decorating and replacements within his residence, including the heating and air conditioning system and any partitions and interior walls. Maintenance, repairs and replacements of the refrigerators, ranges and other kitchen appliances and lighting fixtures shall also be at the expense of each Owner. He further shall be responsible for the maintenance, repair and replacement of all windows in his residence and also the doors leading into the residence, and any and all other maintenance, repair and replacements of the improvements on his Lot unless otherwise provided herein.

If, because of the negligent act or omissions of an Owner, or of a member of his family, his household pet, a guest or other authorized occupant or visitor of such Owner, damage shall be caused to the Common Area or to a Lot owned by others, then such Owner shall pay for such damage, as may be determined by the Association, unless such loss is covered by the Association's insurance with such policy having waiver of subrogation clause. Any such cost to be paid by the Owner shall be a special assessment against such Owner and his Lot.

To the extent that equipment, facilities and fixtures within any Lot shall be connected to similar equipment, facilities or fixtures affecting or serving other Lots or any Common Area, then the use thereof by the Owner of such Lot shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association, shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to the Common Area or any part thereof, or any equipment, facilities or fixtures affecting or serving other Lots or any Common Area.

Section 2. Maintenance of Common Area. The Association shall be responsible for the maintenance, repair and replacement of all the Common Area and improvements thereon. The Association shall also be responsible for such maintenance, repairs and replacements as may be required for the bringing of utility services to the Lots.

Section 3. Exterior Maintenance Obligations of Association with Respect to Lots. In addition to maintenance upon the Common Area, the Association shall provide exterior surface maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, and other exterior improvements. Such exterior maintenance shall not include glass surfaces, doorways, windows and window frames. The Association's obligation shall

include snow removal from the Common Areas used as private streets and shall include grass cutting on each Lot, with each Lot Owner having the option to handle his own grass cutting, but at no reduction in assessments unless specifically altered by a two-thirds (2/3) vote of the Class A Members. The Lot Owner shall exercise this option in writing no later than March 1 of each year and can only revoke same thereafter upon thirty (30) days' written notice to the Board of Directors. Trash removal shall be each Lot Owner's responsibility, but the Association reserves the right to assume the responsibility of contracting for a scavenger service for trash removal for all Lot Owners and/or establishing rules and regulations throughout the Properties concerning trash and its removal.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the costs of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE VI

INSURANCE

Section 1. The Association shall purchase a master casualty policy affording fire and extended coverage in an amount consonant with the full replacement value of the improvements that comprise the residences on each Lot (but not Owner's contents therein), and also the improvements that in whole or in part comprise the Common Areas and facilities paid as part of the common expenses; and such other terms and provisions pertaining to insurance which may reasonably be deemed necessary or appropriate (1) to assure that all Common Areas and all residences are insured and that there will be proceeds of insurance to repair or restore the same in the event of a casualty loss thereto; or (2) otherwise to assist or to simplify problems of coordinating insurance coverage between the Owners and the Association.

Section 2. The Board of Directors of the Association shall also have the authority to and shall obtain comprehensive public liability insurance in such limits as it shall deem desirable, and workmen's compensation insurance, and other liability insurance as it may deem desirable, insuring each Owner and the Association, its Board of Directors, and any of its employees or agents from liability in connection with the Common Area. Where agreeable to the insurer, all liability insurance policies shall contain cross-liability endorsements to cover liability of the Owners collectively to an Owner individually.

Section 3. Each Owner shall have the right to purchase any additional insurance he deems necessary and he shall be responsible, unless otherwise provided herein, for all insurance on the contents of his residence and decorating and furnishing and personal property therein, and his personal property stored elsewhere on the property, and his personal liability to the extent not covered by the liability insurance for all Owners obtained as a part of the common expenses as above provided.

Section 4. Casualty and Restoration. In the event of damage or destruction of any of the Properties, then the Association shall cause such damaged or destroyed property to be promptly repaired and restored. The proceeds of the insurance carried by the Association and Owner covering their respective obligations hereunder shall be applied to such repair and restoration.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the Dwelling

upon the Properties and placed on the dividing line between the lots shall constitute a party wall, to the extent not inconsistent with the provisions of this Article, the general rules of law of the State of Indiana regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule or law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribute Runs with Land. The right of any Owner to a contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE VIII

GENERAL PROVISIONS

Section 1. Enforcement. These covenants, conditions and restrictions may be enforced by the Association or any Owner. Enforcement of these covenants, conditions and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant, condition or restriction, either to restrain or enjoin violation or to recover damages, and against the land to enforce any lien created by these covenants; and the failure or forbearance by the Association or any Owner to enforce any covenant, condition or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be conclusive presumption that any violation or breach of any attempted restrictions cannot be adequately remedied by action at law or by recovery of damages.

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

Section 3. Duration. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns for a term of twenty-five (25) years from the date

or recordation of this Declaration, after which the said covenants shall be automatically extended for successive periods of ten (10) years each, unless by a two-thirds (2/3) vote of the Class A Members and two-thirds (2/3) vote of Class B Members of the Association such covenants and conditions are amended, altered or revoked.

Section 4. Amendment. This Declaration may be amended during the first twenty-five (25) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and thereafter by an instrument signed by not less than two-thirds (2/3) of Class A Members and two-thirds (2/3) vote of Class B Members. Any amendment must be recorded in the Office of the Recorder of Johnson County, Indiana. No such agreement to amend, in whole or in part, shall be effective unless written notice of the proposed agreement is sent to every Owner at least thirty (30) days in advance of any action taken and no such agreement shall be effective with respect to any permanent easements or other permanent rights or interest relating to the Common Areas herein created.

Section 5. Declarant reserves the following rights in the Common Elements until Declarant ceases to have Class B Membership:

- (a) An easement over and upon the Common Elements and upon lands appurtenant to the Lots for the purpose of completing improvements for which provision is made in this Declaration where access thereto is otherwise not reasonably available;
- (b) An easement over and upon the Common Areas for the purpose of making repairs required pursuant to this Declaration or contracts of sale made with Lot purchasers;
- (c) The right to maintain in the Common Areas sales and management offices, model units and advertising signs.

ARTICLE IX

MORTGAGEE'S RIGHTS

Section 1. Notice of Rights of Mortgagee of a Lot. Upon written request by a mortgagee to the Association, Mortgagee of a Lot shall be entitled to receive written notification of any default, not cured within sixty (60) days after its occurrence, by the Owner of the Lot of any obligation of the Owner under the Declaration, the By-Laws of the Association or the Articles of Incorporation of the Association. The request for notification can be made by any mortgagee of a Lot, its successor or assign. The notification shall be sent not later than the 65th day after the occurrence of an uncured default.

Section 2. Right to Examine Books and Records. Mortgagees, their successors or assigns, shall have the right to examine the books and records of the Association.

Section 3. First mortgagees of Dwellings may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Area and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of all first mortgagees duly executed by the Association, and an original or certified copy of such agreement shall be possessed by the Seller.

Section 4. Insurance Proceeds and Condemnation Awards. No provision of the constituent documents shall give a Lot owner or

any other party, priority over any rights of first mortgagees of Dwellings with the Properties pursuant to their mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Areas.

ARTICLE X

HARMONY AND ENVIRONMENTAL CONTROLS

Section 1. Architectural Control Committee. Except for original construction or as otherwise in these covenants provided, no building, fence, sidewalk, drive, walk or other structure shall be created, placed, altered or maintained upon the Properties nor shall any exterior addition to or change (including any change in color) or alteration therein be made until the proposed building plans, specifications, exterior color and finish, plot plans (showing the proposed location of such building or structure, drives and parking areas), general contractor and all subcontractors, and construction schedule shall have been submitted to and approved in writing by the Board of Directors of the Association, or by any architectural control committee composed of not less than three (3) members appointed by said Board of Directors. Refusal of approval of plans, location or specification by said Board of Directors or architectural control committee may be based upon any ground, including, without limitation, lack of harmony of external design, color, location or relation to surrounding structures and topography and purely aesthetic considerations which, in the sole and uncontrolled discretion of said Board of Directors or architectural control committee shall seem sufficient. No alterations may be made in such plans after approval by the Board of Directors or architectural control committee is given except by and with their prior written consent. One copy of all plans, specifications and related data shall be furnished the Board of Directors or architectural control committee for its records. In the event the Board of Directors, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this article will be deemed to have been fully complied with. Notice of disapproval shall be by certified mail, return receipt requested.

Section 2. Fences. Except for original construction, no fence, hedges or wall shall be constructed upon the Properties without the prior written approval of the Architectural Control Committee.

Section 3. Prohibited Uses and Nuisances. Except for the activities of the Declarant during original construction:

(a) No noxious or offensive trade or activity shall be carried on upon any Lot within any Dwelling situated upon a Lot, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners of the Lots.

(b) The maintenance, keeping, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot or within any Dwelling situated upon the Properties, except that this shall not prohibit the keeping of dogs, cats and/or caged birds or other unobjectionable domestic pets provided they are not kept, bred or maintained for commercial purposes.

(c) No burning of any trash and no accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted on any Lot.

(d) Except as hereinelsewhere provided, no junk vehicle, motorcycles, commercial vehicle, trailer truck, camper, camp

truck, house trailer, boat or the like, shall be kept upon the Properties (except in enclosed garages) nor (except for bona fide emergencies) shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. The Association may, in the discretion of its Board of Directors, provide and maintain a suitable area designated for the parking of such vehicles or the like.

(e) In order to facilitate the free movement of passing vehicles, no automobiles belonging to Owners shall be parked on the paved portion of any joint driveway or streets, public or private, except during bona fide temporary emergencies.

(f) Except as may be approved in writing by the Board of Directors or their designated committee, no structure of a temporary character, trailer, tent, shack, barn or other outbuilding shall be used on any portion of the property at any time.

(g) Except for entrance signs, directional signs, community "theme" and the like, no signs of any character shall be erected, posted or displayed upon, in or about any Lot situated upon the Properties, unless specifically permitted by a written resolution adopted by the Board of Directors.

(h) No structure, planting or other material other than driveways or sidewalks shall be placed or permitted to remain upon any portion of the Properties which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels.

(i) Garage doors and the doors of any other storage room or the like shall be maintained in a closed position when not being used for immediate ingress and egress.

(j) No outside television or radio aerial or antenna, or other aerial or antenna, for reception or transmission shall be maintained upon any Lot without the prior written consent of the Board of Directors unless such structure is a part of the basic design of a Dwelling or group of Dwellings.

(k) There shall be no violation of any rules for the Common Area which may from time to time be adopted by the Board of Directors or promulgated among the membership by them in writing, and the Board of Directors is hereby and elsewhere in the By-Laws, authorized to adopt such rules.

(l) In addition to the foregoing restrictions, all restrictions of any recordation which involves the use of the Properties are incorporated by reference herein as restrictions of this Declaration.

(m) The Property shall be developed and used only for single family attached or detached residential uses and for the use and maintenance of non-commercial recreational facilities constructed as an amenity to and owned in common by the owners of single family residences thereon.

(n) Each dwelling unit shall be separately legally structured in such a manner as will permit it to be individually sold as a part of a permanent home community.

Section 4. Right of Association to Remove or Correct Violations of this Article. The Association may, in the interest of the general welfare of all the Owners of the Lots and after reasonable notice to the Owner, enter upon any Lot or the exterior of any Dwelling at reasonable hours on any day for the purpose of removing or correcting any violations or breach or any attempted

violation of any of the covenants and restrictions contained in this Article, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided, however, that no such action shall be taken without a resolution of the Board of Directors of the Association or by an architectural control committee composed of three (3) or more members appointed by the Board.

Section 5. Perpetual Easement for Encroachments. If any portion of the common area shall encroach upon any Lot, or if any Lot or any improvement, building, overhang, fixture or other structure or improvements of whatever type shall for any reason encroach upon any other Lot or upon any portion of the Common Area as a result of the construction of the building or improvements, a valid, perpetual easement for the encroachment and for its maintenance is retained by the Declarant for its benefit and for the benefit of the Association and any owner of a Lot whose Lot is affected thereby and shall exist perpetually. In the event the building or the improvement shall be partially or totally destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, and then rebuilt, any resulting encroachment shall be permitted, and a valid easement for such encroachments is hereby reserved by the Declarant for its benefit and for the benefit of the Association and any owner of a Lot whose Lot is affected thereby and shall exist perpetually.

Section 6. Construction and Sale Period. Notwithstanding any provisions contained herein to the contrary, it shall be expressly permissible for the Declarant to maintain, during the period of construction and sale of Lots, upon such portion of the Properties as the Declarant may deem necessary, such facilities as in the sole opinion of the Declarant may be reasonably required, or be convenient or incidental to the construction and sale of the Lots, including, but without limitation, storage areas, construction areas, signs, model residences, construction offices, sales offices and business offices.

ARTICLE XI

OWNERSHIP OR LEASE OF LOTS BY BOARD OF DIRECTORS

(a) Declarant may designate and convey to the Board of Directors any unsold Lot, and the Board of Directors may purchase and/or hold such a Lot to be provided as a residence for a managing agent. The cost thereof, if any, and the Common Expenses thereto shall be shared by the remaining Owners in the same proportion as Common Expenses, adjusted, however, to reflect the exclusion of the Lot purchased; and any profit or loss realized upon the sale by the Association of such Lot shall likewise be shared by the remaining Owners.

In addition, the Board of Directors may purchase or lease other Lots pursuant to the provisions of the By-Laws and this Declaration. In the event that the Board of Directors shall purchase and/or hold a Lot as provided hereunder, title to any such Unit, together with all interests appurtenant thereto, shall be held by the Board of Directors or its designee, corporate or otherwise, as trustees on behalf of all Owners, in proportion to their respective Common Interests or in the event such Lot shall have been acquired on behalf of one or more, but less than all Owners, title shall be held in the proportions as designated by such Owner(s). The lease covering any Lot leased to the Board of Directors, or its designee, corporate or otherwise, shall be held by the Board of Directors, or its designee, as trustee on behalf of all Owners, in proportion to their respective Common Interest or, in the event that such Lot shall have been leased on behalf of one or more, but less than all Owners, such lease shall be held in the proportions as designated by such Owner(s).

(b) Power of Attorney to Board of Directors. Each Owner shall be deemed to have granted to the persons who shall from time to time constitute the Board of Directors an irrevocable power of attorney, coupled with an interest, to acquire title to or lease any Lot whose Owner desires to sell or lease the same, to the Board of Directors, or with respect to which said Board has exercised the option to purchase or lease as provided herein, or which may be the subject of a foreclosure or other judicial sale, in the name of the Board of Directors or its designee, corporate or otherwise, as trustees on behalf of all or less than all Owners, and to hold, convey, sell, lease, mortgage, vote the votes appurtenant thereto or otherwise deal with any such Lot so acquired or to sublease any Lot so leased to the Board of Directors.

ARTICLE XII

TRANSFER OR LEASE OF LOTS

(a) In the event that any person, firm or corporation who owns a Lot shall desire to sell such Lot, then the said Lot which such Owner shall desire to sell shall first be offered for sale to the Board of Directors at the same price and on the same terms under which the highest acceptable bona fide offer has been made to the Owner of the said Lot. The Owner desiring to sell a Lot shall give the Board of Directors written notice by registered or certified mail, return receipt requested, of the Owner's desire to sell such Lot or by delivering such notice in person to the President of the Association and shall further advise the Board in said offer of the name and address of the person, firm or corporation making said highest acceptable bona fide offer as well as the amount and terms of said offer and such other information concerning said offeree as the Board shall reasonably request. The giving of such notice shall constitute a warranty or representation by such Owner to the Board that said Owner believes the offer to be bona fide in all respects. The Board of Directors shall have a period of fourteen (14) days after receipt of said written notice within which to exercise its option to purchase or lease such Lot at the same price and on the same terms as the highest acceptable bona fide offer and shall have an additional period of not less than thirty (30) days within which to close the said transaction. The Board of Directors may elect to purchase such Lot on behalf of all of the remaining Owners as a group or, if the remaining Lot Owners as a group do not wish to purchase such Lot, then on behalf of any one or more individual Owners. In the event the Board of Directors shall elect to purchase a Lot offered for sale on behalf of all of the remaining Lot Owners, the cost thereof shall be shared by all of the remaining Owners in the same proportion as Common Area Expenses, adjusted, however, to reflect the exclusion of the Lot purchased or leased; and any profit or loss realized upon the sale by the Board of a Lot so acquired shall likewise be shared by all of the remaining Owners.

In the event that the Board of Directors shall elect to purchase a Lot offered for sale on behalf of any one or more individual Owners, then the cost and Common Expenses thereof shall be shared by such purchasing Owners in such proportion as they shall agree upon.

In the event that the Board shall elect not to purchase such Lot within the time provided herein, the Owner may, at the expiration of said 14-day period and at any time within ninety (90) days after the expiration of said period, contract to sell such Lot to the proposed purchaser named in such notice upon the terms specified therein. In the event that such Owner shall fail to so sell such Lot to such purchaser in such 90-day period, or if during such 90-day period such Owner shall offer such Lot for sale on terms more favorable to purchaser than those set forth in such notice, then the right of first refusal to the Board shall again become effective.

The Board of Directors, upon the request of a Lot Owner who has offered his Lot for sale to the Board, shall execute in recordable form an instrument indicating compliance with the terms and provisions of this Declaration by such Owner. In the event that the Board shall elect not to purchase the Lot so offered to it, the Lot Owner shall notify the Board in writing immediately upon the closing of the sale, giving the name and address of the purchaser. Such Lot Owner shall likewise notify the Board of his failure to sell such Unit within the times specified herein.

(b) No Lot Owner may mortgage his Lot or any interest therein without the prior written approval of the Board of Directors, except as to a first mortgage lien made to a bank, mortgage banker, life insurance company or savings and loan association. The Board may, and it is hereby authorized to impose reasonable conditions upon which approval as to any other mortgage will be given. No Lot Owner may mortgage or otherwise encumber his Lot or any interest therein unless such mortgage or encumbrance shall provide for not less than ten (10) days' written notice to the Board of Directors prior to any foreclosure under any such mortgage or other encumbrance; provided, however, that said Board may, in its discretion, waive said requirement for ten (10) days' notice as to any one or more mortgages. Each Lot Owner who shall mortgage or otherwise encumber his Lot or any interest therein shall furnish to the Board of Directors a copy of all such mortgages, deeds of trust or other instruments creating such encumbrance. Any sale, voluntary transfer or conveyance which is not authorized by the terms of this Declaration or for which authorization has not been obtained pursuant to the terms hereof is voidable and may be voided by certificates of the Board of Directors duly recorded in the Office of the Recorder, Johnson County, Indiana.

(c) Approval by the Board of the sale of any Lot shall not constitute a waiver of the right to approve any subsequent sale, or assignment by the purchase of such Lot.

(d) The following conveyances are specifically excluded from the provisions of this paragraph:

- (1) Conveyances of gift or such that are made without consideration;
- (2) Conveyances by Declarant;
- (3) Transfers or conveyances upon death; and
- (4) Conveyances wherein the Association has, in writing, waived its right under this paragraph.

In addition, the right of first refusal of the Board of Directors provided for in this paragraph shall not apply to transfers, sales or conveyances involving a foreclosure sale or other judicial sale or transfer to a mortgagee in lieu of foreclosure, or any transfer by a mortgagee following foreclosure or any proceeding or arrangement in lieu thereof.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 11 day of July, 1979.

BY: C. E. Walters
C. E. WALTERS

BY: D. F. Cummins
D. F. CUMMINS

STATE OF INDIANA)
) SS:
COUNTY OF)

Before me, a Notary Public in and for said County and State, personally appeared C. E. WALTERS and D. F. CUMMINS, who acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions, and who, having been duly sworn, stated that the representations contained therein are true.

WITNESS my hand and seal this 11 day of July, 1979.



My Commission Expires:
July 23, 1979

Elmer L. Harmeson
Notary Public
County of Residence: Madison
Elmer L. Harmeson

This Instrument Prepared By:
Raymond Good
GOOD & BERTRAM
Attorneys at Law
5972 Madison Avenue
Indianapolis, Indiana 46227
(317) 783-1321

LEGAL DESCRIPTION

Exhibit "A"

Part of the Southwest Quarter of Section 34 and part of the Southeast Quarter of Section 33, all in Township 14 North, Range 4 East of the Second Principal Meridian, described as follows:
 Beginning at the southeast corner of the Southeast Quarter of the said Section 33, thence South 88 degrees 36 minutes 27 seconds West along the south line of said Quarter Section, a distance of 276.93 feet to the east right-of-way line of Emerson Avenue; thence northeasterly along said right-of-way line on a curve to the left which has a radius of 1198.16, a chord bearing of North 30 degrees 25 minutes 53 seconds, and a curved distance of 555.00 feet; thence South 71 Degrees 38 minutes 35 seconds East 1.22 feet to the east line of the Southeast Quarter of Section 33; thence continuing on said line 41.39 feet; thence southeasterly along a tangential curve to the left which has a radius of 175.00 feet and a curved distance of 90.10 feet; thence North 78 degrees 51 minutes 29 seconds East 20.72 feet; thence northeasterly along a tangential curve to the right which has a radius of 425.00 feet and a curved distance of 111.71 feet; thence South 86 degrees 04 minutes 59 seconds East 54.76 feet; thence southeasterly along a tangential curve to the left which has radius of 1884.86 feet and a curved distance of 174.37 feet; thence North 88 degrees 37 minutes 00 seconds East 298.70 feet; thence northeasterly along a curve to the right which has a radius of 55.00 feet, a chord bearing of North 88 degrees 37 minutes 00 seconds East, and a curved distance of 152.68 feet; thence North 88 degrees 37 minutes 00 seconds East 46.64 feet; thence South 00 degrees 10 minutes 43 seconds West 434.17 feet to the south line of said Southwest Quarter of Section 34; thence South 88 degrees 15 minutes 06 seconds West 933.97 feet along the south line of said Southwest Quarter of Section 34 to the southwest corner of Section 34 being the point of beginning and containing 10.76 acres, more or less.

Subject to all legal highways, rights-of-ways and easements of record.

STATE OF INDIANA)
) SS:
 COUNTY OF JOHNSON)

I, John W. Whitlock, hereby certify that I am a land surveyor registered in compliance with the laws of the State of Indiana; and I do hereby further certify that I have surveyed the property described in the above caption and that I have subdivided the same into blocks and lots as shown on the heron drawn plat. This plat correctly represents said survey and subdivision in every detail.
 All lot corners are as shown thereon. Dimensions are in feet and decimal parts thereof.

John W. Whitlock
 JOHN W. WHITLOCK
 Registered Land Surveyor #8-0163

Date: 26 APRIL 79

PREPARED BY:

53 34
 JUL 17 2 30 PM '79
 FORTRESS ENGINEERING
 GREENWOOD, INDIANA

JOHNSON COUNTY RECORDER

AMENDMENT TO DECLARATION OF

95001357

COVENANTS, CONDITIONS AND RESTRICTIONS

Comes now Villa Green Association, Inc. f/k/a Eden Estate Home Owners Association, Inc. and records their amendments to the covenants, conditions and restrictions as follows, to-wit:

WITNESSETH:

That the Association has duly voted by a majority of its members and changed the attached amendments to the Declaration of Covenants, Conditions and Restrictions of the Villa Green Association, Inc. to change the document originally recorded as Instrument No. 006689 in Book 053, Page 34, in the Recorder's Office of Johnson County, Indiana. *(In Book 9, Page 68)*

IN WITNESS WHEREOF, We have set our hand and seal this 27 day of January, 1995.

Martha M. Reynolds
Martha M. Reynolds
Secretary-Treasurer

Hershel Green
Hershel Green, President

STATE OF INDIANA }
COUNTY OF JOHNSON } SS:

Before me, a Notary Public in and for said County and State, personally appeared Hershel Green, President, and Martha M. Reynolds, Secretary-Treasurer, and acknowledge the execution of the foregoing Amendment to Declaration of Covenants, Conditions and Restrictions and under oath state the representations therein contained are true.

Witness my hand and Notarial Seal this 27 day of January, 1995.

Pamela S. Young
Pamela S. Young
Notary Public
residing in Johnson County.

My Commission Expires 3/12/98.

THIS INSTRUMENT PREPARED BY: Martha M. Reynolds
Secretary-Treasurer

AMENDMENT TO DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
AUGUST 15, 1994

ARTICLE II-Section 1

- (a) Delete-We have no recreational facility
- (c) Delete- We have no recreational facility

ARTICLE IV- Section 4- Uniform Rates of Assessment.

Uniform Rates of Assessment. Both annual and special assessments for capital improvements shall be fixed at a uniform rate for applicable lots. Special assessments for maintenance to limited common areas shall be uniform, but only as to Lots that are parallel to and abut such limited common area. Annual assessments shall be paid the first day of each month, quarter or semi-annual basis, but if paid on other than an annual basis, default in the payment of any on installment, shall cause the entire unpaid assessment for the year in which the delinquency occurs to become immediately due and payable. (see exception under Article V-Section 3).

ARTICLE IV-Section 5 Maximum Annual Assessment.

Until (June 1-1995) the maximum annual assessment per unit shall be nine hundred dollars (900.00) for the ensuing three (3) calendar years, because of uncertainties in usual and ordinary Common Area expenses due to the Indiana Real property reassessment, rising cost of energy and other unforeseeable operating expenses, the Board of Directors of the Association may increase the assessment by a sum not to exceed Ten Percent (10%) per annum without vote of the Membership. However, any such increases shall be documented by normal accounting procedures and distributed to the Membership to demonstrate that such increases are attributable to increases in operating expenses and no portion of such increases shall inure to the benefit of Declarant and the moneys received shall be entirely expended on Association expense.

ARTICLE IV-Section 6 Special Assessments for Maintaining Limited Common Areas and for Capital Improvements.

- (a) For maintaining Limited Common Areas. The Association may fix special assessments for maintaining Limited Common Areas where in their sole discretion, such assessments are necessary in addition to an annual assessment allocated for such purpose.

ARTICLE IV-Section 7. Notice and Quorum for any Action Authorized Under Section 5 & 6.

Written notice of any meeting called for the purpose of taking any action authorized under Sections 5 or 6 shall be sent to all Class A and Class B Members not less than thirty (30) days nor more than (60) days in advance of the meeting. At the first such meeting called, the presence of Class A Members or of proxies entitled to cast sixty percent (60%) of all the votes of the Class A Membership shall constitute a quorum.

ARTICLE V- Section 3. Exterior Maintenance Obligations of Association with Respect to Lots.

Section 3. Exterior Maintenance Obligations of Association with Respect to Lots. In addition to maintenance upon the Common Area, the Association shall provide exterior surface maintenance upon each Lot which is subject to assessment hereunder, as follows: PAINT, REPAIR, REPLACE AND CARE FOR ROOFS, GUTTERS, DOWNSPOUTS AND OTHER ROOF FIXTURES, EXTERIOR BUILDING SURFACES, AND OTHER EXTERIOR IMPROVEMENTS. Such exterior maintenance shall not include glass surfaces, doorways, window and window frames. The Association's obligation shall include snow removal from the common Areas used as private streets and shall include grass cutting on each lot with each Lot Owner having the option to handle his own grass cutting, but at no

reduction in assessments unless specifically altered by a two-thirds (2/3) vote of the Class A Members. The Lot Owner shall exercise this option in writing no later than (March 1) of each year and can only revoke same thereafter upon thirty (30) day's written notice to the Board of Directors. Trash removal shall be each Lot Owner's responsibility of contracting for a scavenger service for trash removal for all Lot Owner's and/or establishing rules and regulations throughout the Properties concerning trash and its removal.

In the event that the need for maintenance or repair is caused through the willful or negligent act of the Owner, his family, or guest, or invitees, the costs of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

ARTICLE X- Harmony and Environmental Controls.

Section 3 (i)

Garage doors may be maintained in an open position (weather permitting) for reason of receiving fresh air and additional light, when not being used for ingress and exit.

JAN 27 12 42 PM '95

