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DECLARATION OF COVENANTS AND RESTRICTIONS
OF
GRAYSTONE

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**DECLARATION OF COVENANTS
AND RESTRICTIONS OF GRAYSTONE**

THIS DECLARATION OF COVENANTS AND RESTRICTIONS made this 6th day of December, 2005, by HILLS BROOKSCHOOL, LLC, an Indiana limited liability company ("Declarant").

WITNESSETH:

WHEREAS, the following facts are true:

A. Declarant is the sole owner in fee simple title or has the exclusive right to purchase certain real estate located in Hamilton County, Indiana, more particularly described in the attached Exhibit A, which is incorporated herein by reference (hereinafter referred to as the "Real Estate")

B. Declarant, by execution and recording of this Declaration, is subjecting the Real Estate to the terms and provisions of this Declaration and assuring that all properties which are conveyed which are a part of the Real Estate shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the Real Estate and be binding upon all parties having any right, title or interest in the Real Estate, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner.

NOW, THEREFORE, Declarant hereby makes this Declaration as follows:

1. Definitions. The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) "Applicable Date" means the date determined pursuant to Paragraph 10 of this Declaration.

(b) "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Corporation, as hereinafter defined. The Articles of Incorporation are incorporated herein by reference.

(c) "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the Bylaws of the Corporation.

(d) "Bylaws" shall mean the Bylaws of the Corporation and shall provide for the election of directors and officers and other governing officials of the Corporation.

(e) "Common Area" means the area designated as Common Area upon a Plat or designated as Common Area in this Declaration and which is to be maintained and controlled by the Corporation.

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(f) "Common Expense" means expenses for administration of the Corporation, expenses for the upkeep, maintenance, repair and replacement of the Common Area and of other maintenance obligations of the Corporation and all sums lawfully assessed against the Members of the Corporation.

(g) "Corporation" means the Graystone Homeowners Association, Inc., its successors and assigns, a not-for-profit corporation whose Members shall be Owners of Lots as more particularly described in Paragraph 9 of this Declaration

(h) "Declarant" shall mean and refer to Hills Brookschool, LLC, and any successors and assigns of it whom it designates in one or more written recorded instruments, to have the rights of Declarant hereunder including, but not limited to, any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

(i) "Dwelling Unit" means one of the living units located upon a Lot.

(j) "Exclusive Landscape Easement" shall mean and refer to that area identified in any recorded Plat to be burdened by such an easement. The landscaping located within the Exclusive Landscape Easement shall be installed and maintained by the Corporation and the Corporation shall have an easement of ingress and egress on and over the areas adjacent thereto for the purpose of this maintenance obligation

(k) "Graystone" means the name by which the Real Estate, which is the subject of this Declaration, shall be known.

(l) "Landscape Maintenance Access Easement" shall mean and refer to those areas identified in any recorded Plat to be burdened by such easement. The landscaping located within the Landscape Maintenance Access Easement shall be maintained by the Corporation and the Corporation shall have an easement of ingress and egress on and over the areas adjacent thereto for the purpose of this maintenance obligation. The landscaping and other improvements planted or installed by the Declarant and/or the Corporation within the Landscape Maintenance Access Easement may not be removed by any Owner, nor may any Owner add any landscaping or improvements to such easement area without the prior approval of the Architectural Review Board.

(m) "Lot" means any plot of ground designated as such upon the Plat, other than Lots 39 and 40, and upon which one (1) Dwelling Unit is constructed, may be constructed or exists thereon. When Lot is used it shall be deemed to include the Dwelling Unit, if any, located thereon.

(n) "Mortgagee" means the holder of a first mortgage lien on a Lot.

(o) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot.

(p) "Quorum" means Owners or Members constituting twenty-five percent (25%) of the aggregate of all Owners or Members in the Corporation.

(q) "Plat" means the survey of the Real Estate and the Lots, Common Area and Easements shown thereon prepared by Stoepelwerth & Associates, certified by Kevin C. Sumner, a registered land surveyor, under date of August 11, 2005, recorded as Instrument No. 200500051808 in the Office of the Recorder of Hamilton County, Indiana, and incorporated herein by reference and any additional plat that may be filed, upon subjecting additional portions of the Real Estate to this Declaration.

(r) "Utility, Drainage and Sewer Easements" means the areas of ground on the Plat marked Drainage and Utility Easement; Drainage, Utility and Sanitary Sewer Easement, and Drainage Easement and Sanitary Sewer Easement.

2. Declaration. Declarant hereby expressly declares that the Real Estate shall be held, conveyed and transferred in accordance with the provisions of this Declaration.

3. Description of Graystone. Graystone consists of 40 Lots numbered 1 through 40 inclusive, together with the Common Area and Easements as designated on the Plat. The Common Area, Easements and the size of the Lots are as designated on the Plat. The legal description for each Lot in Graystone shall be as follows:

Lot ___ in Graystone, a subdivision in Hamilton County, Indiana, as per plat thereof recorded August 11, 2005, as Instrument Number 200500051808, in the Office of the Recorder of Hamilton County, Indiana.

Notwithstanding the foregoing, Lots 39 and 40 are specifically excluded from this Declaration and shall not be part of the Corporation. Lots 39 and 40 are subject to the Plat and the Zoning Commitments (described in Paragraph 10(f)).

4. Lot Boundaries. The boundaries of each Lot shall be as shown on the Plat.

5. Common Area. The Corporation shall have the obligation to provide for the maintenance, upkeep, repair and replacement of the Common Area as depicted on the Plat, even if the Common Area has not been conveyed to the Corporation. Common Area shall be used only for those uses specifically delineated in this Declaration or on the Plat.

6. Ownership of Common Area. The Common Area shall be conveyed to or owned by the Corporation, and shall be held for the use and enjoyment of the Members, all of whom shall have the right and easement of enjoyment in and to the Common Area which right shall pass with title to every Lot, subject to the provisions of this Declaration, including but not limited to, the following:

(a) The right of the Corporation, upon approval by a written instrument signed by two-thirds of all Class A Members, two-thirds of all Class B Members, and by two-thirds of all first mortgagees to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such Common Area purposes and subject to such conditions as may be agreed by the Corporation. Notwithstanding the foregoing, prior to the Applicable Date, the Declarant may grant any and all easements and rights of way on, across, over, under and through

the Common Area and Real Estate as may be necessary or required for the development of Graystone.

(b) The right of the Corporation to adopt such rules and regulations regarding the Common Area as it deems necessary as provided in Paragraph 10.

(c) The Common Area shall be conveyed to or owned by the Corporation on the Applicable Date or earlier, free and clear of liens and encumbrances, except for platted or recorded easements, agreements or conditions set forth in this Declaration and any Plat and real estate taxes not yet due and payable; provided, however, that the conveyance of the Common Area to the Corporation shall not prevent Declarant from improving the Common Area as Declarant deems appropriate at any time prior to the Applicable Date; and further provided the Corporation shall be responsible for any costs and expenses related to the Common Area, even if the Common Area or any part thereof has not been conveyed to the Corporation.

7. Delegation of Use of the Common Area. Any Member may delegate, in accordance with provisions of this Declaration and the rules or regulations promulgated by the Corporation, his right of enjoyment, and use of the Common Area and facilities to members of his family, his tenants or contract purchasers who reside on any Lot.

8. Easements.

(a) Easements in Common Area. Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in the Common Area. Such easement and right to use shall pass with title to the Lot even though not expressly mentioned in the document passing title.

An easement is also granted to the Corporation, its officers, agents and employees and to any management company selected by the Corporation to enter in or to cross over the Common Area and Lots to perform its duties; provided, however, except in the case of an emergency, reasonable notice shall be given to the Owner.

An easement is also granted to the Corporation, its officers, agents and employees and to any management company selected by the Corporation and to any third party designated by the Corporation to enter in or to cross over the Common Area and Lots (i) for snow removal; (ii) for lawn mowing and fertilization; and (iii) to undertake any and all other duties assigned to the Corporation hereunder.

All public and quasi-public vehicles, including but not limited to, police, fire and other emergency vehicles, trash and garbage collection, post office vehicles and privately-owned delivery vehicles, shall have the right to enter upon the Common Area for the performance of their duties. An easement is also granted to all utilities and their agents for ingress-egress, installation, replacement, repairing and maintaining of such utilities, including but not limited to, water, sewer, gas, telephone, and electricity on the Real Estate; provided, however, nothing herein shall permit the installation of sewer, electric lines, water lines or other utilities except as initially designed and approved by Declarant or as thereafter may be approved by the Board of Directors. By virtue of this easement, the electric and telephone utilities are expressly permitted to erect and maintain the necessary equipment on the Real Estate and to affix and maintain

electric and telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Dwelling Units provided such installation is first approved in writing by Declarant or the Board.

(b) Other Easements and Agreements. The Real Estate is further subject to:

(a) Marathon Pipeline Company Gas Pipe Line Easement, recorded April 7, 1941, in Volume 35 Page 464, re-recorded September 21, 1949 in Volume 39 Page 278 in the Office of the Hamilton County Recorder as amended by an Easement Amendment with Partial Release recorded January 13, 2005, as Instrument No. 200400002642 in the Office of the Hamilton County Recorder.

(b) Special Contract for Extension of Sewer Mains and Facilities for Graystone dated December 22, 2004, by and between Hamilton Southeastern Utilities, Inc., Hills Brookscool, LLC and Graystone Homeowners Association, Inc.

(c) Landscape, Maintenance Access Easement (the "Landscape Easement"). Declarant hereby declares, creates, grants and reserves the Landscape Easement as shown on the Plat as a non-exclusive easement for the use of the Declarant and the Corporation for installation, maintenance and removal of trees, shrubbery, flowers and other plantings, entryway signage and additional similar landscape improvements (all of which items, as existing from time to time, shall constitute "Landscape Improvements"). Except as installed by the Declarant or the Corporation, and except for any utility facilities or drainage facilities which may be installed in any easement that may now or hereafter be declared, granted or reserved in or upon any portion of the Real Estate and designated on the Plat as Landscape Easement, no structures or other improvements shall be installed or maintained in or upon any Landscape Easement. The landscaping located within the Landscape Easement shall be maintained by the Corporation and the Corporation shall have an easement of ingress and egress on and over the Lots adjacent thereto for the purpose of satisfying this maintenance obligation. The landscaping and other improvements planted or installed by the Declarant and/or the Corporation within the Landscape Easement may not be removed by any Owner, nor may any Owner add any landscaping or improvements to such easement area without the prior approval of the Architectural Review Board.

(d) Landscape Preservation Easement (the "LPE"). Declarant hereby declares, creates, grants and reserves the LPE as shown on the plat as a non-exclusive easement for the use of the Declarant and the Corporation for the installation of trees, shrubbery, flowers, other plantings and additional similar landscape improvements (all of which items as existing from time to time shall constitute the "LPE Improvements"). After installation by the Declaration and/or the Corporation of the LPE Improvements, the LPE Improvements shall be maintained in good condition by the Owner of the Lot upon which the LPE Improvements have been installed. After initial installation, additions to or removal of any of the LPE Improvements or any other landscaping within the LPE must be approved by the Architectural Review Board. Aside from the LPE Improvements, no improvements, buildings, or other items (excluding fences which have been approved by the Architectural Review Board) will be allowed within the LPE. In the

event an Owner who is obligated under this Section to maintain the LPE Improvements fails to do so, the Corporation may, but shall not be obligated to, maintain such LPE Improvements and the cost thereof shall become an Additional Assessment which may be enforced and collected by the Corporation as provided in this Declaration.

(e) Exclusive Landscape Easement. Declarant hereby declares, creates, grants and reserves the Exclusive Landscape Easement as shown on the Plat as an exclusive easement for the use of the Declarant and the Corporation for installation, maintenance and removal of trees, shrubbery, flowers and other plantings, additional similar landscape improvements, monument wall and sign contained in the median section along Broadmoor Court North (all of which items, as existing from time to time, shall constitute "Exclusive Landscape Improvements"). Except as installed by the Declarant or the Corporation, no structures or other improvements shall be installed or maintained in or upon the Exclusive Landscape Easement. The landscaping located within the Exclusive Landscape Easement shall be maintained by the Corporation and the Corporation shall have an easement of ingress and egress on and over the easement for the purpose of satisfying this maintenance obligation. The Exclusive Landscape Improvements planted or installed by the Declarant and/or the Corporation within the Exclusive Landscape Easement may not be removed without the prior approval of the Architectural Review Board.

(f) Utility, Drainage and Sewer Easements. The Utility, Drainage and Sewer Easements are hereby created and reserved for the use of all public utility companies (not including transportation companies), governmental agencies and the Corporation for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Utility, Drainage and Sewer Easements are hereby created and reserved for (i) the use of Declarant for access to and construction, maintenance, operation, repair and control of any retention and detention ponds and improvements comprising and/or related to the storm water drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) the use of the Corporation for access to and maintenance, repair and replacement of such drainage system. The Owner of any Lot subject to a Utility, Drainage and Sewer Easement shall be required to keep the Easement area on his Lot free from obstructions so that the storm water drainage will be unimpeded and will not be changed or altered without the appropriate governmental and prior written approval of the Declarant. The Utility, Drainage and Sewer Easements are hereby created and reserved for the use of Declarant, the Town of Fishers and Hamilton Southeastern Utilities for installation and maintenance of an underground sanitary sewer system and drainage system. The delineation of the Utility, Drainage and Sewer Easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any portion of any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this Paragraph

9. Corporation; Membership; Voting; Functions.

(a) Membership in the Corporation. Declarant and each Owner of a Lot which is subject to assessment shall, automatically upon becoming an Owner, be and become a Member of the Corporation and shall remain a Member until such time as his ownership of a Lot ceases at which time his membership shall terminate and will be transferred to the new Owner of his Lot;

provided, however, that any person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a Member until and unless he realizes upon his security, at which time he shall automatically be and become an Owner and a Member of the Corporation.

(b) Voting Rights. The Corporation shall have two (2) classes of membership with the following voting rights:

- (i) Class A. Class A Members shall be all Owners except Class B Members. Each Class A Member shall be entitled to one (1) vote for each Lot of which such Member is the Owner with respect to each matter submitted to a vote of Members upon which the Class A Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Corporation, but all of such persons shall have only one (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.
- (ii) Class B. Class B Members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B Members in a written notice mailed or delivered to the Secretary of the Corporation. Each Class B Member shall be entitled to three (3) votes for each Lot of which it is the Owner on all matters requiring a vote of the Members of the Corporation. The Class B membership shall cease and terminate upon the Applicable Date, which shall be the first to occur of (i) the date upon which the written resignation of all Class B Members is delivered to the Secretary of the Corporation, (ii) the date when at least seventy-five percent (75%) of all Lots platted or planned in Graystone have been conveyed to Owners other than Declarant or entities designated by Declarant as Class B Members, or (iii) December 31, 2012.

(c) Functions. The Corporation has been formed for the purpose of providing for the maintenance, repair, upkeep, replacement, administration, operation and ownership of the Common Area, to pay taxes assessed against and payable with respect to the Common Area and to pay any other necessary expenses and costs in connection with the Common Area, and to perform such other functions as may be designated for it to perform under this Declaration.

10. Board of Directors

(a) Management. The business and affairs of the Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, or is a person appointed by Declarant as provided in subparagraph (b) of this Paragraph 10.

(b) Initial Board of Directors. The Initial Board of Directors shall be composed of the persons designated in the Articles, to-wit: Gregg Hothem, Kevin Junker and Clifford White (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in this Declaration, the Articles or the Bylaws (a) the Initial Board shall hold office until the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date, determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any method shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which Members of the Corporation are entitled to vote under the Declaration, the Articles, the Bylaws or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a Member of the Corporation and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a Member of the Corporation nor an Owner of a Lot for any other purpose (unless he is actually the Owner of a Lot and thereby a Member of the Corporation).

(c) Additional Qualifications.

- (i) Where an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner or an officer or trustee shall be eligible to serve on the Board of Directors, except that no single Lot may be represented on the Board of Directors by more than one person at a time.
- (ii) The Board of Directors shall be composed of three (3) persons.

(d) Term of Office and Vacancy. Subject to the provisions of subparagraph (b) of this Paragraph 10, at least one (1) member of the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date (which, if appropriate, may be a special meeting) one member of the Board of Directors shall be elected for a three (3) year term, one for a two (2) year term, and one for a one (1) year term so that the terms of at least one-third (1/3) of the members of the Board shall expire annually. If such election is at a special meeting, the Directors elected shall serve for the applicable period plus the time from the special meeting to the first annual meeting. There shall be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject

to the provisions of subparagraph (b) of this Paragraph 10 as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with subparagraph (e) of this Paragraph 10, subject to the requirements of this Paragraph 10(d). The Director so filling a vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to whom there has otherwise been a vacancy, subject to the requirements of this Paragraph 10(d).

(e) Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners (and subject to the requirements of this Paragraph 10) nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

(f) Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including, but not limited to, providing for the administration of the Corporation, the management, maintenance, repair, upkeep and replacement of the Common Area and certain components of the Lots as set forth in the following subparagraphs (x) and (xi) and the collection and disbursement of the Common Expenses. The Board may, on behalf of the Corporation and in accordance with paragraph 11, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out the Board's duties and the Corporation's responsibilities, which include, but are not limited to:

- (i) Protection and replacement of the Common Area;
- (ii) Maintenance, repair, upkeep and replacement of the Common Area, including but not limited to, the maintenance, repair, upkeep and replacement of the following (if any and if located within the Common Area): (1) signage, (2) walls, fences, gates and other structures, (3) flowers, plant material, grass and other landscaping, (including mulching landscape beds at least once per year) (4) irrigation systems, (5) lighting, and (6) storm water management and detention areas and systems;
- (iii) Compliance with the Zoning Commitments contained within the Town of Fishers' Ordinance 051704A, which Zoning Commitments are attached hereto as Exhibit B;
- (iv) Assessment and collection from the Owners of each Owner's respective share of the Common Expenses;

- (v) Preparation of the proposed annual budget, a copy of which will be delivered to each Owner at the annual meeting;
- (vi) Preparing and delivering annually to the Owners an accounting of all receipts and expenses incurred in the prior year;
- (vii) Procuring and maintaining for the benefit of the Corporation and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;
- (viii) Paying taxes assessed against and payable with respect to the Common Area and paying any other necessary expenses and costs in connection with the Common Area;
- (ix) Cutting the established lawn located on any Lot and fertilizing the lawn as frequently as deemed necessary by the Board of Directors in its sole discretion. However, the Owner of such Lot shall be solely responsible for watering and weeding the grass; edging around fences, shrubs, bushes, trees and any other improvements; leaf removal, and caring for and maintaining any landscaping (including, without limitation, shrubs, trees, bushes, flowers or plants) as required by the Zoning Commitments and provided, further, that the Owner shall be solely responsible for cutting any grass and fertilizing any lawn located inside any fenced area of the Lot. All children, toys, pets and other obstructions must be removed from the yard by the Owner during the time such maintenance activities occur.
- (x) Snow removal from driveways and sidewalks as and when warranted by weather conditions; provided, however, such snow removal shall not be required unless there is at least two (2) inches of snow accumulated. The Owner shall provide safe, regular and reasonable access to such area to the Corporation and its authorized representatives. All children, vehicles, pets, toys and other obstructions or hazards shall be removed by the Owner from the driveways and sidewalks during the time snow removal activities occur.

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

- (i) To employ a Managing Agent to assist the Board in performing its duties;
- (ii) To purchase, lease or otherwise obtain for the Corporation, to enable it to perform its functions and duties, such equipment,

materials, labor and services as may be necessary in the judgment of the Board of Directors;

- (iii) To employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Corporation;
- (iv) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;
- (v) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
- (vi) To open and maintain a bank account or accounts in the name of the Corporation;
- (vii) To promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Area (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered or mailed to all Owners.

(h) Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$5,000.00 without obtaining the prior approval of a majority of the Owners, except that in the following cases such approval shall not be necessary:

- (i) Contracts for replacing or restoring portions of the Common Area damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received;
- (ii) Proposed contracts and proposed expenditures which are provided for in the annual budget; and
- (iii) Expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

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

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

(k) Additional Indemnity of Directors. The Corporation shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director of the Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in actions, suits or proceedings where such Director is adjudged liable for bad faith, gross negligence or willful misconduct in the performance of his duties. The Corporation shall also reimburse any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a vote of the Owners constituting sixty percent (60%) of a Quorum that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

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

11. Initial Management. The Initial Board of Directors has entered or may hereafter enter into a management agreement with a professional property management agent ("Management Agent" or "Managing Agent") for a term not to exceed one (1) year with either party having the right to terminate upon ninety (90) days' notice under which such Managing Agent will provide supervision, management and maintenance of the Common Area (except as such is the obligation of the individual Owners) and in general, perform all of the duties and obligations of the Corporation. Such management agreement may be renewed by the parties for additional terms of one (1) year. Such management agreement is or will be subject to termination by Declarant (or its affiliate as appropriate) at any time prior to expiration of its

term, in which event the Corporation shall thereupon and thereafter resume performance of all of its duties and obligations. Notwithstanding anything to the contrary contained herein, so long as a management agreement between the Corporation and Declarant (or its affiliate as appropriate) is in effect, Declarant (or its affiliate as appropriate) shall have and Declarant hereby reserves to itself (or to its affiliate as appropriate), the exclusive right to manage the Real Estate and perform all the functions of the Corporation.

Each Owner hereby authorizes the Corporation and the Board of Directors and its officers to enter into the aforesaid management agreement and agrees to adhere to and abide by the same.

12. Real Estate Taxes. Real estate taxes are to be separately assessed and taxed to each Lot. In the event that for any year the real estate taxes are not separately assessed and taxed to each Lot but are assessed and taxed on the Real Estate or part thereof as a whole, without a breakdown for each Lot, then each Owner shall pay his proportionate share of the real estate taxes assessed to the land comprising the Real Estate or that part thereof that is assessed as a whole, which shall be the ratio that the square footage in his Lot bears to the total square footage of all the land comprising the Real Estate or part thereof assessed as a whole. Real estate taxes assessed on the improvements on the Real Estate shall be paid by the Owner of such improvements. Any real estate taxes or other assessments which are chargeable against the Common Area shall be paid by the Corporation and treated as a Common Expense.

13. Utilities. Each Owner shall pay for his own utilities which are separately metered. Utilities applicable to the Common Area or which are not separately metered shall be a Common Expense.

14. Maintenance, Repairs and Replacements.

(a) General. Maintenance, repairs, replacements and upkeep of the Common Area (including but not limited to the Street Trees required in the Zoning Commitments) shall be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses.

The Board of Directors shall adopt rules and regulations concerning maintenance, repairs, use and enjoyment of the Common Area as it deems appropriate, and may amend and modify the same from time to time as it deems advisable, necessary or appropriate.

Except as established as the Corporation's responsibility under paragraph 10 of this Declaration, each Owner shall be responsible for maintaining and keeping his Lot and all other structural improvements located on his Lot in a good, clean, neat, sanitary and well maintained condition and shall do such work thereon as is required to cause such Lot and structural improvements to be so maintained.

Notwithstanding any obligation or duty of the Corporation to repair or maintain the Common Area as provided in paragraph 10, if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, pet(s), tenant, invitee or other occupant or visitor of such Owner, damage shall be caused, or if maintenance, repairs or replacements shall be required thereby, which would otherwise be a Common Expense, then such Owner shall pay for such damage and such

maintenance, repairs and replacements, as may be determined by the Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

So long as the Real Estate is subject to this Declaration each Owner, by his acceptance of a deed to any Lot, irrevocably grants to the Corporation, its agents and employees, the right to enter upon, across and over the Lot owned by such Owner under such conditions as are reasonably necessary to inspect the property and/or effect the maintenance, cleaning, repair, landscaping or other work contemplated herein.

15. Architectural Control.

(a) The Architectural Review Board. As a standing committee of the Corporation, there shall be, and hereby is, established an Architectural Review Board consisting of three (3) or more persons (or such lesser number as is on the Initial Board of Directors). Until the Applicable Date, the Architectural Review Board shall be the Initial Board of Directors. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors and may be different than or the same as the Board of Directors.

(b) Purposes. The Architectural Review Board, using the architectural guidelines adopted by the Architectural Review Board as a guide, shall regulate the external design, appearance, use, location and maintenance of the Real Estate (including the Common Area, Lots, and Dwelling Units) and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures and improvements and maintain the integrity of the criteria established in such architectural guidelines; provided, however, Declarant shall have the exclusive authority regarding architectural approval for any initial construction of a Dwelling Unit.

(c) Conditions. No improvements, alterations, excavation or changes in grade or other work which in any way alters any Lot or the exterior of any Dwelling Unit or other improvement thereon shall be made or done without the prior written approval of the Architectural Review Board. There shall be no requirement that the Architectural Review Board approve the initial construction of a Dwelling Unit on a Lot provided such construction is approved by the Declarant. No building, fence, wall, Dwelling Unit, or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot or Common Area without the prior written approval of the plans by the Architectural Review Board other than the initial construction of a Dwelling Unit and other improvements provided the plans for such construction are approved by Declarant.

(d) Procedures. In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within thirty (30) days after such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt) have been given to it, approval will be deemed denied by the Architectural Review Board. A decision of the Architectural Review Board may be appealed to the Board of Directors which may reverse or modify such decision by a majority vote. If

construction or alteration approved by the Architectural Review Board is not completed within six (6) months of approval, approval is cancelled and Owner must submit a new application to the Architectural Review Board.

(e) Failure to Comply. If any improvement, alteration or change is made without the prior written approval or deemed approval of the Architectural Review Board (or Declarant, if initial construction), the Owner shall, upon demand of the Architectural Review Board (or Declarant as applicable), cause such construction or alteration to be removed, remodeled or restored in order to comply with the requirements of this paragraph. The Owner shall be liable for the payment of all costs of such removal or restoration, including (i) all costs and attorneys fees incurred by the Architectural Review Board or Declarant, as applicable, and (ii) a fine of up to One Thousand Dollars (\$1,000.00) if such removal and/or restoration is not completed within thirty (30) days of demand by the Architectural Review Board or Declarant, as applicable. Such costs may also be the basis for an individual Special Assessment applicable to such Owner. The Architectural Review Board and Declarant are specifically empowered to enforce the architectural provisions of this Declaration by any legal or equitable remedy. In the event that it becomes necessary to resort to litigation to determine the propriety of any construction or alteration or to remove any unapproved construction, the Architectural Review Board or the Declarant shall be entitled to recover its court costs, expenses and attorneys fees in connection therewith.

In the event that any Owner fails to comply with the architectural provisions contained herein, the Board may, in addition to all other remedies contained herein, record against the Owner's Lot a notice stating that the improvements on the Lot fail to meet the requirements of the Declaration.

(f) Applicable Standards. The Architectural Review Board or Declarant, as applicable, may impose standards for construction and alteration of Dwelling Units and other improvements which may be greater or more stringent than standards prescribed in the Zoning Commitments and applicable building, zoning or other local development codes. However, the approval, rejection or withholding of any approval by the Architectural Review Board or Declarant of the plans, proposals, specifications and location of all structures and every alteration of any structure shall not be construed or interpreted as a representation or determination by the Architectural Review Board, the Board or Declarant that any building, plumbing, electrical code or other applicable governmental regulation or requirement has or has not been properly met by the Owner. Each Owner shall be responsible for obtaining all necessary technical data and for making application to and obtaining approval of all appropriate governmental authorities prior to commencement of any work or construction. The Architectural Review Board or Declarant or their agents shall be entitled to enter upon any Lot during construction of a Dwelling Unit to insure compliance with approved plans and specifications. Neither the Declarant, the Architectural Review Board, the Corporation, the Board of Directors or officers thereof, nor any person acting on behalf of any of them, shall be responsible for any defect in plans or specifications nor for defects in any improvements constructed pursuant thereto.

(g) Colors. No exterior colors on any Dwelling Unit or other structure shall be permitted that in the sole judgment of the Architectural Review Board would be inharmonious or incongruous with Graystone. The Zoning Commitments allow earth tones and other traditional

colors. The Architectural Review Board may further limit such exterior colors. Any future exterior color changes desired by an Owner must be first approved in writing by the Architectural Review Board in accordance with this paragraph 15.

(h) Fees. The Architectural Review Board may charge reasonable fees for the processing of plans and specifications. Such fees may cover the cost of such processing, including inspection costs. Such fees shall be payable at the time of submission of the respective item for approval and shall be paid to the Corporation.

16. Assessments.

(a) Annual Accounting. Annually, after the close of each fiscal year of the Corporation, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared in accordance with generally accepted accounting principles, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

(b) Proposed Annual Budget. Annually, before the date of the annual meeting of the Corporation, the Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year and shall furnish a copy of such proposed budget to each Owner at such annual meeting. The annual budget shall be submitted to the Owners at the annual meeting of the Corporation for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next fiscal year. At the annual meeting of the Owners, notwithstanding any other provision in this Declaration, the Articles or the Bylaws, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of those Owners present either in person or by proxy; provided, however, that in no event shall the annual meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget and the Regular Assessments shall include a replacement reserve fund for capital expenditures and replacement and repair of the Common Area and other repair and maintenance and replacement obligations of the Corporation that must be repaired and replaced on a periodic basis (the "Replacement Reserve"), which Replacement Reserve shall be used for those purposes and not for usual and ordinary repair expenses. Such Replacement Reserve shall be established by the Board at a reasonable level taking into account future repair, maintenance and replacement obligations. The Replacement Reserve will be maintained in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Hamilton County or Marion County, Indiana selected from time to time by the Board.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Corporation, there is no annual budget approved by the Owners as herein provided for such current fiscal year, the

Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

(c) Regular Assessments. The annual budget, as adopted by the Owners, shall, based on the estimated cash requirement for the Common Expenses and contributions to the Replacement Reserve in the current fiscal year as set forth in said budget, contain a proposed assessment, against each Lot. The assessment against each Lot shall be equal to the Common Expenses and contributions to the Replacement Reserve multiplied by a percentage equal to one (1) divided by the sum of the number of Lots in the Real Estate. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in advance in equal monthly installments with the first payment due on the date such Lot is conveyed by Declarant or other builder approved by the Declarant to an Owner (prorated to the first day of the month when the next monthly payment is due). Thereafter, payment of the Regular Assessment shall be paid monthly. Declarant or any other builder approved by the Declarant who does not or will not occupy any Dwelling Unit constructed on the Lot shall be exempt from paying any Regular Assessment.

Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, the Board may elect to have the Owners pay assessments quarterly, semi-annually or annually, in advance. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget:

- (i) If the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the current fiscal year to the date of the next payment of the Regular Assessment which is due shall be paid with such next payment, and all payments thereafter during such fiscal year, shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or
- (ii) If the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, until the entire amount of such excess has been so credited;

provided, however, that if an Owner had paid his Regular Assessment annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners

The Regular Assessment for the current fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as Owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to Paragraph 17 hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Monthly installments, quarterly installments, semi-annual installments or annual installments of Regular Assessments (as applicable) shall be due and payable automatically on their respective due dates without any notice from the Board or the Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same.

(d) Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall be the equal obligation of all Owners and shall become a lien on each Lot (herein called "Special Assessment") The Board shall be obligated to provide the Owners with notice of the date of the Board of Directors' meeting when the vote for any resolution for a Special Assessment is to be made. Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor. No Special Assessment shall be made prior to the Applicable Date without the approval of Declarant

(e) Regular Assessments Prior to the Applicable Date. During the period that Declarant is selling Lots and Dwelling Units are being constructed within the Real Estate, it is difficult to accurately determine or allocate the Common Expenses to the individual Lots. The purpose of this section is to provide the method for the payment of the Common Expenses during the period prior to the Applicable Date to enable the Corporation to perform its duties and functions. Accordingly and notwithstanding any other provision contained in this Declaration, the Articles or the Bylaws or otherwise, prior to the Applicable Date, the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without

any meeting or concurrence of the Owners; provided, however, the Regular Assessments shall be determined in accordance with the provisions contained in this Paragraph 16.

Declarant shall guarantee that until December 31, 2006, the Regular Assessment shall not exceed One Hundred Twenty Dollars (\$120) per month (the "Guaranteed Charge"). After December 31, 2006 and until the Applicable Date, the Declarant guarantees that the yearly Regular Assessment shall not exceed the amount of the Guaranteed Charge, plus the greater of (1) an amount representing an increase thereof to reflect any increase in the Consumer Price Index (all items - all cities) published by the United States government over such index as existed in the month of December, 2006, or (2) ten percent (10%) per annum. The amount to be added to the Guaranteed Charge shall be in an amount equal to the same percentage of the Guaranteed Charge as the percentage increase in said Consumer Price Index or ten percent (10%) per annum, whichever is greater, or if Declarant so determines, a lesser amount. Such adjustments to the Guaranteed Charge shall be made annually on the first day of each fiscal year. Such yearly Guaranteed Charge as adjusted shall, during such guaranteed period, entirely defray the Owner's obligation for his share of Common Expenses and shall be the Owner's entire Regular Assessment. Declarant shall not be required to pay any Regular Assessment during such guaranteed period. Declarant shall be responsible for any deficit during such guaranteed period; provided, however, that this guarantee is not intended to include, and does not include, major physical alterations or other unusual expenditures not ordinarily anticipated in normal maintenance operations. Such expenditures would be covered through Special Assessments, or, if sufficient, the replacement reserve fund.

That portion of the Regular Assessment collected by Declarant prior to the Applicable Date applicable to the replacement reserve shall be held by the Corporation and if required, applied to the replacement of Capital Items. To the extent that such replacement reserve is not so applied, the balance thereof shall be retained by the Corporation at the Applicable Date.

Payment of the Regular Assessment or Guaranteed Charge prior to the Applicable Date with respect to each Lot shall commence on the date that the Lot is conveyed by Declarant or by another builder approved by Declarant to an Owner ("Commencement Date"). The first payment shall be payable on the Commencement Date. Thereafter, payment of the Regular Assessment or Guaranteed Charge shall be paid monthly. In addition, at the initial closing of each Dwelling Unit (other than the conveyance to Declarant an affiliate of Declarant or a builder approved by Declarant who will not occupy the Dwelling Unit), the purchaser or new Owner is required to pay a sum equal to two (2) months of the current Regular Assessment or Guaranteed Charge as Owner's initial contribution to the working capital of the Corporation. Such amounts shall be used by the Corporation as initial working capital for Common Expenses. This amount is not an advance payment of Regular Assessments and will not be held in any trust or reserve account.

(f) Failure of Owner to Pay Assessments. No Owner may exempt himself from paying Regular Assessments and Special Assessments or from contributing toward the Common Expenses or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common Area or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment or Special

Assessment when due, the lien for such assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board of Directors for and on behalf of the Corporation as a mortgage on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Regular Assessment or Special Assessment when due the Board may, in its discretion, (i) impose a late charge of up to fifteen percent (15%) of the unpaid amount; (ii) accelerate the entire balance of unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary; and (iii) eliminate such Owner's right to vote during the time such amounts remain unpaid. The Board may, at its option, bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board for and on behalf of the Corporation shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit costs and expenses of such action incurred (including but not limited to reasonable attorneys fees) and interest from the date such assessments were due until paid at the rate equal to the lesser of (i) ten percent (10%), or (ii) the highest rate allowed by applicable law.

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

17. Mortgages and Unpaid Assessments

(a) Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the Bylaws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record at the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee, as may be otherwise required by this Declaration, the Bylaws or otherwise, shall be required and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, the Bylaws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

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

(b) Notice of Unpaid Assessments The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Paragraph 16 hereof.

(c) Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Area which are in default and (2) to pay any overdue premiums on hazard insurance for the Common Area or to secure new hazard insurance for the Common Area on the lapse of a policy. Any mortgagee making such payment shall be owed immediate reimbursement by the Corporation.

18. Insurance.

(a) Casualty Insurance The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring all of the Common Area in an amount equal to the full replacement value of the improvements which in whole or in part, comprise the Common Area, unless the Board determines that a lesser amount of insurance is appropriate. If the Board of Directors can obtain such coverage for reasonable amounts they shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above.

All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as hereinabove set forth shall be paid to it or to the Board of Directors. The proceeds shall be used or disbursed by the Corporation or Board of Directors, as appropriate. All policies on the Common Area shall be for the benefit of the Owners and their mortgagees as their interests may appear.

Exclusive authority to adjust losses under policies in force on the Real Estate obtained by the Corporation shall be vested in the Board of Directors; provided, however, that no mortgagee having an interest in such losses may be prohibited from participating in negotiations, if any, related thereto.

Such master casualty insurance policy, and "all risk" coverage, if obtained, shall (to the extent the same are obtainable) contain the following:

- (i) a waiver of the right to subrogation by the insurer as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests;
- (ii) an endorsement that such policy shall not be terminated for nonpayment of premiums without at least thirty (30) days prior written notice to Mortgagees;
- (iii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
- (iv) that no policy may be canceled, invalidated, or suspended on account of the acts of any one or more individual Owners;
- (v) that no policy may be cancelled, invalidated, or suspended on account of the conduct of any trustee, officer, or employee of the Corporation or its duly authorized manager without prior demand in writing delivered to the Corporation to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Corporation, its manager, any Owner, or mortgagee;
- (vi) that any "other insurance" clause in any policy exclude individual Owner's policies from consideration.

Each Owner shall be solely responsible for loss or damage to his Dwelling Unit and the contents thereof however caused and his personal property stored elsewhere on the Real Estate and the Corporation shall have no liability to the Owner for such loss or damage. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

Each Owner shall obtain fire and casualty insurance for his Dwelling Unit as necessary to provide sufficient proceeds to fully replace a Dwelling Unit damaged or destroyed as a result of fire or any other casualty, to the way such Dwelling Unit existed prior to such fire or other casualty. To the extent insurance proceeds are insufficient to pay for the full replacement of the Dwelling Unit after such fire or other casualty, the Owner shall nevertheless be obligated to fully replace the Dwelling Unit and to pay any cost thereof not covered by insurance proceeds.

(b) Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Corporation, the Board of Directors, any committee or organ of the Corporation or Board, any Managing Agent appointed or employed by the Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners.

(c) Other Insurance. The Corporation shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational

disease insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including, but not limited to, liability insurance on vehicles owned or leased by the Corporation and officers' and directors' liability policies. Such insurance shall inure to the benefit of each Owner, the Corporation, the Board of Directors and any Managing Agent acting on behalf of the Corporation. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Corporation.

(d) General Provisions. The premiums for all insurance hereinabove described to be maintained by the Corporation shall be paid by the Corporation as part of the Common Expenses.

19. Casualty and Restoration of Common Area. In the event of damage to or destruction of any of the Common Area due to fire or any other casualty or disaster, the Corporation shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Corporation, if any, shall be applied to the cost of such repair and reconstruction.

In the event the insurance proceeds, if any, received by the Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Area, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Area to as near as possible the same condition as it existed immediately prior to the damage or destruction

20. Covenants and Restrictions. The following covenants and restrictions on the use and enjoyment of the Real Estate shall be in addition to any other covenants or restrictions contained herein, in the Plat and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

(a) Each Dwelling Unit shall be at least 1,500 square feet in size for a single story and at least 1,800 square feet for a two story, each exclusive of decks, basements, patios, porches and garages and otherwise comply with the Zoning Commitments. As provided in the Zoning Commitments, no Dwelling Unit may contain more than three (3) bedrooms.

- (b) Each Dwelling Unit shall have, at a minimum, an attached two (2) car garage.
- (c) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family. No Lot shall be subdivided to form lots of less area.
- (d) No structure of any kind that is commonly known as "factory built," "modular," or "mobile home" type of construction shall be erected on the Real Estate.
- (e) Nothing shall be done or kept in any Dwelling Unit, or on any Lot, or the Common Area which will cause an increase in the rate of insurance on any Common Area or Lot. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot or on any of the Common Area which will result in a cancellation of insurance on any Dwelling Unit or any part of the Common Area, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.
- (f) No nuisance shall be permitted on any Lot.
- (g) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any Dwelling Unit without the prior consent of the Architectural Review Board.
- (h) No signs, freestanding or otherwise installed, shall be erected or displayed on any Lot or Dwelling Unit unless the placement, character, form, size, lighting, and type of placement of such sign is first approved in writing by the Architectural Review Board. All signs must also conform with governmental codes and regulations. Notwithstanding the foregoing, one (1) standard "for sale" sign may be displayed on a Lot provided that such sign is not larger than 3 feet x 3 feet.
- (i) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any Lot or any of the Common Area, except that up to a total of three (3) pets, being dogs, cats or customary household pets, may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, does not create a nuisance and the owner thereof complies with all rules and regulations adopted by the Corporation regarding such pets.
- (j) All garbage and trash containers, oil tanks, bottled gas tanks, swimming pool equipment, housing and sprinkler pumps and other such outdoor equipment must be placed underground, walled-in or placed in sight-screened or fenced-in areas so that such equipment shall not be readily visible from any adjacent street or other Lot. Wall air conditioning units may be permitted only upon the prior written approval of the Declarant or the Architectural Review Board. All garbage and trash containers shall be regularly removed from the Dwelling Unit, Lot and Real Estate and shall be stored in areas not visible from any street.
- (k) No outdoor clothes-drying areas shall be allowed.

(l) No industry, trade, or other commercial activity designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Real Estate; provided, however, nothing in this paragraph or this Declaration shall prohibit a home office that is used by a person living in the Dwelling Unit so long as at any one time there is only one employee, client or customer of the home office business in the Dwelling Unit in addition to the persons living in such Dwelling Unit.

(m) No structure of a temporary character, trailer, boat, camper, bus or tent shall be maintained on any Lot unless stored completely enclosed within a garage with the garage door to remain closed. No garage or other building, except a permanent residence, shall be used on any Lot at any time as a residence or sleeping quarters either temporarily or permanently.

(n) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Area or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Area. The Common Area shall be used and enjoyed only for the purposes for which it is designed and intended.

(o) Except for vehicles being used by Declarant or by persons providing services to the Declarant or the Corporation, no boats, campers, trailers of any kind, buses, mobile homes, trucks (other than 3/4 ton or less pick-up trucks), motorcycles, mini bikes, mopeds, or any other vehicles of any description other than normal passenger automobiles, shall be parked or stored anywhere within the Real Estate. Nothing herein shall prevent the parking or storage of such vehicles if such vehicles are completely enclosed within a garage. No repair work shall be done on the Real Estate on any vehicles, including passenger automobiles, except within an enclosed garage. Temporary parking of delivery trucks and/or service vehicles for loading and unloading and providing normal residential services to an Owner shall be permitted but shall not exceed 24 hours for a single visit and not more than an aggregate total of 72 hours in any calendar year.

(p) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Area, Landscape Easement or LPE except with express written permission from the Board.

(q) No Owner may rent or lease his Dwelling Unit for transient or hotel purposes. Any Owner who leases a Dwelling Unit shall lease the entire Dwelling Unit and shall have a written lease with a minimum term of twelve (12) months, which shall provide that the lease is subject to the provisions of this Declaration and any failure of the lessee to comply with the terms of this Declaration, shall be a default under the lease. A copy of any lease must be provided timely to the Corporation.

(s) Building lines are designated on the Plat. Except as required for utilities to serve the Real Estate or a Lot, no building or structure will be permitted except within the building lines.

(t) All electric, telephone, gas and other utility lines must be installed under ground unless otherwise approved in writing by the Declarant, the Board of Directors or the Architectural Review Board.

(u) Prior to the Applicable Date, all mailboxes must be initially purchased from and installed by the Declarant and any replacement mailboxes installed by an Owner must be of the manufacturer and model specified by the Declarant. After the Applicable Date, any mailboxes must be approved by the Architectural Review Board prior to installation.

(v) No detached structure, fence, swimming pool, deck or patio or other item described in paragraph 15 shall be maintained on any Lot except with the express permission from the Architectural Review Board; provided, however, no sheds or outbuildings shall be permitted or approved by the Architectural Review Board

(w) All exterior lighting of a Lot shall be accomplished in accordance with a lighting plan approved in writing by the Architectural Review Board or Declarant.

(x) No above-ground swimming pools shall be constructed, erected, placed or permitted to remain upon any Lot. The definition of "above-ground swimming pools" shall not include portable wading pools used by small children not more than one foot (1') in height. In-ground swimming pools are permitted provided it is approved by the Architectural Review Board in accordance with paragraph 15. This paragraph shall not prohibit the construction, erection or replacement of a diving board, slide or other equipment appurtenant to an otherwise conforming swimming pool, provided that such has been approved by the Architectural Review Board.

(y) No fence or wall of any kind, specifically including the use of a hedge or other growing plants as a fence, and for any purpose, except a retaining wall, shall be erected or built on any part of any Lot between the rear of the building constructed thereon and the street in front of the building. Note that corner Lots have two front yards and the above restrictions apply to both yards fronting on a street. Fences erected on said Lot shall not be in excess of four (4) feet in height and shall be wood, brick, decorative aluminum, PVC or stone, or other attractive material previously approved by the Architectural Review Board or Declarant pursuant to paragraph 15 above. Except as provided below, barbed wire, chain link or similar fences shall be prohibited, except 2"x4" green wire mesh (or similar) may be approved to be installed in conjunction with and on the inside of a split rail or other approved fence. Fences around swimming pools or other hazardous water features shall not be less than five (5) feet, provided they shall be no lower than the minimum required by law to circumscribe a pool. Wrought iron fences are allowed for this purpose. If a fence is located in an easement, it shall not be placed in a location where it hinders the use of intended easement or alters the storm water drainage. Notwithstanding the foregoing, no fencing (including invisible dog-type fencing) or walls shall be permitted on any part of the Common Area or Easement, with the exception of those installed by Declarant or any other builder, without the prior written consent of the Architectural Review Board.

Any Owner who receives approval of the Architectural Review Board to construct a fence or other improvement within an Easement constructs such fence or other improvement at

such Owner's sole risk. In the event work is required in such Easement, Declarant, any third party so authorized in this Declaration and/or any authorized municipal body or utility provider may undertake such work without liability to repair or replace any damage to any fence or other improvement. Any fence or other improvement which impedes or restricts drainage may be modified or removed by the Corporation or applicable municipal entity or utility provider. The cost thereof shall be the Owner's expense and treated as an additional assessment against such Owner's Lot.

(z) Swing sets, basketball hoops and play areas may be erected on a Lot only after the location and materials of those Structures are approved in writing by the Architectural Review Board in accordance with paragraph 15 above. No batting cages are allowed on any Lot. Swing sets and play areas must be located behind the rear wall of the Dwelling Unit and at least five (5) feet from all property lines.

(aa) There shall be no more than two (2) garage or yard sales held by the Owner or residents of any Lot during any twelve (12) month period. No garage or yard sale may extend more than three (3) days.

(bb) Holiday-type lights may be erected no sooner than the 1st of December and must be removed no later than the following 15th of January.

(cc) No structure, planting, or other material other than driveways or sidewalks shall be placed or permitted to remain upon any Lot 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 in the easement area. The easement area of each Lot and all improvements in the easement area shall be maintained by the Owner of the Lot except for those improvements for which a public authority or utility company is responsible.

Other covenants and restrictions related to the Lots and any Dwelling Units may be set forth on the Plat. In the event of a conflict between the covenants and restrictions contained herein and those in the Plat, the covenants and restrictions contained herein shall control.

Notwithstanding anything to the contrary contained herein or in the Articles or Bylaws, including, but not limited to, any covenants and restrictions set forth herein or otherwise, Declarant shall have, until the Applicable Date, the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Real Estate (other than individual Dwelling Units and Lots owned by persons other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in their sole discretion to aid in the construction of Dwelling Units and the sale of Lots and Dwelling Units or for the conducting of any business or activity attendant thereto, including, but not limited to, model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all of the same from time to time as they desire. At no time shall any of such facilities so used or maintained by Declarant be or become part of the Common Area unless so designated by Declarant, and Declarant shall have the right to remove the same from the Real Estate at any time.

21. Amendment of Declaration

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

- (i) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered which notice shall be at least fourteen (14) days prior to the date of the meeting.
- (ii) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least ten percent (10%) of the votes of all Owners.
- (iii) Meeting. The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting duly called and held in accordance with the provisions of the Bylaws.
- (iv) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than sixty-seven percent (67%) in the aggregate of the votes of all Owners constituting a Quorum; provided, however, that prior to the Applicable Date all proposed amendments shall require the written consent of the Declarant. In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.
- (v) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of Paragraph 18 of this Declaration with respect to casualty insurance to be maintained by the Corporation, or (3) the provisions of Paragraph 19 of this Declaration with respect to reconstruction or repair of the Common Area, or (4) the provisions of Paragraph 16 of this Declaration with respect to the commencement of assessments on any Lot, or (5) the provisions of paragraph 21 of this Declaration with respect to amendments solely by Declarant, or (6) the provisions of Paragraph 10 relating to the makeup of the Board and the duties of the Board and the Corporation without, in each and any of such circumstances, or (7) the provisions of paragraph 15 of this Declaration establishing the Architectural Review Board and providing for its functions without the unanimous approval of all Owners, including Declarant so long as Declarant owns any Lot, and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

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

(b) Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein or in any other documents, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other person to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing & Urban Development, the Federal Housing Association, the Veteran's Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements, (d) to correct clerical, typographical or other errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto, or (e) to clarify Declarant's original intent. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Paragraph 21 on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Paragraph 21 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Real Estate.

(c) HUD Approval. Notwithstanding anything elsewhere contained herein or in any other document, so long as there are Class B Members, HUD shall have the right to review and approve amendments or changes to the Declaration and related documents relating to the following:

- (i) Mergers and consolidation of any Real Estate, Common Area or the Corporation relating to Graystone.
- (ii) The mortgaging or dedication of the Common Area.
- (iii) The dissolution or amendment of the Declaration and related documents.

Specifically, HUD shall have the right to veto any amendments to the Declaration proposed by the Declarant so long as the Class B membership exists.

23. Acceptance and Ratification. All present and future Owners, Mortgagees, tenants and occupants of the Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles, and the Bylaws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors as each may be amended from time to time.

The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles, the Bylaws, and rules and regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be covenants running with the land and shall be binding on any person having at any time any interest or estate in a Lot or the Real Estate as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Real Estate in any manner shall be subject to the Declaration, the Articles of Incorporation, the Bylaws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

24. Negligence. Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his negligence or by that of any member of his family or his or their guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by the Corporation.

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

26. Waiver. No Owner may exempt himself from liability for his contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of his Lot.

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

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

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

30. The Plat. The Plat has been recorded in the Office of the Recorder of Hamilton County and, together with any other plats of the Real Estate which may be filed or recorded, is incorporated herein by reference.

31. Controlling Document. In the event there is a conflict between the provisions of this Declaration and any Plat, the terms of this Declaration, as supplemented or amended, shall be controlling.

Conflict, as used herein, shall mean a situation where the application of the language in one document contradicts the language in another document. Conflict does not occur where language in one document is simply more restrictive than language in another document.

32. No Liability. Declarant and the Board may grant, withhold or deny its permission or approval in any instance where its permission or approval is permitted or required without liability of any nature to Owner or any other person for any reason whatsoever and any permission or approval granted shall be binding upon all persons.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed the day and year first above written.

HILLS BROOKSCHOOL, LLC

By: 
Ian Guttman, Vice President

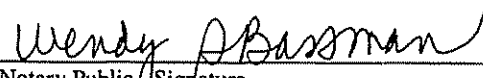
STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Ian Guttman, by me known and by me known to be the Vice President of Hills Brookschool, LLC, who acknowledged the execution of the foregoing "Declaration of Covenants and Restrictions of Graystone" on behalf of said limited liability company.

Witness my hand and Notarial Seal this 6th day of December, 2005.



WENDY S. BASSMAN
Notary Public, State of Ohio
My Commission Expires
June 18, 2010


Notary Public Signature

Wendy S. Bassman
Notary Public - Printed

My Commission Expires: June 19, 2010
My County of Residence: Hamilton County, Ohio

This instrument prepared by Tammy K. Haney, Attorney-at-Law, Bose McKinney & Evans LLP, 600 East 96th Street, Suite 500, Indianapolis, Indiana 46240.

CONSENT OF MORTGAGEE

The undersigned, Hills Financial Group, A Limited Partnership, an Ohio limited partnership, being the holder of an existing mortgage and other security on the real estate described in the above and foregoing Declaration of Covenants and Restrictions of Graystone (the "Declaration") as follows:

See Exhibit A to Declaration

hereby consents to the recording of the above and foregoing Declaration, and further agrees that its mortgage and other security with respect to the Real Estate shall be subject to the foregoing Declaration, Exhibits attached thereto and the documents incorporated therein; provided, however, except and to the extent that the mortgage and other security are modified by this Consent, such mortgage and other security shall remain in full force and effect.

EXECUTED this 6th day of December, 2005.

**Hills Financial Group, A Limited Partnership,
an Ohio limited partnership**

By: Hills Developers, Inc., an Ohio corporation,
its general partner

By: *Ian Guttman*
Ian Guttman, Vice President

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Ian Guttman, by me known and by me known to be the Vice President of Hills Developers, Inc., an Ohio corporation, general partner of Hills Financial Group, A Limited Partnership, an Ohio limited partnership, who acknowledged the execution of the foregoing DECLARATION OF COVENANTS AND RESTRICTIONS OF GRAYSTONE on behalf of said entity.

WITNESS my hand and Notarial Seal this 6th day of December, 2005.

My Commission Expires:
June 19, 2010

My County of Residence:
Hamilton County, Ohio

Wendy S. Bassman
Notary Public Signature

Wendy S. Bassman
Notary Public - Printed



WENDY S. BASSMAN
Notary Public, State of Ohio
My Commission Expires
June 19, 2010

EXHIBIT A

Commencing at the Northwest corner of the East half of said Northeast Quarter Section; thence South 00 degrees 01 minutes 59 seconds East along the West line of said Quarter-Quarter Section 1,311.00 feet to the POINT OF BEGINNING of this description; thence North 89 degrees 23 minutes 27 seconds East 1,275.64 feet; thence South 00 degrees 02 minutes 45 seconds East 580.00 feet; thence South 89 degrees 23 minutes 27 seconds West 1,275.77 feet to the aforesaid West line of said Quarter-Quarter Section; thence North 00 degrees 01 minutes 59 seconds West 580.00 feet to the place of beginning, containing 18.985 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.

This subdivision consists of 40 lots numbered 1 - 40 (all inclusive) and 5 Common Areas labeled C.A. #1 - C.A. #5 (all inclusive). The size of lots and width of streets are shown in feet and decimal parts thereof.

EXHIBIT B

051704A

ORDINANCE NO. ~~051704A~~

**AN ORDINANCE AMENDING THE ZONING
ORDINANCE OF FISHERS, INDIANA - 1980.**

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF FISHERS, INDIANA - 1980. BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FISHERS, INDIANA, THAT THE ZONING ORDINANCE, A PART OF THE COMPREHENSIVE PLAN AND ORDINANCE - 1980, ORDINANCE NO. 110380, AS AMENDED, IS HEREBY AMENDED AS FOLLOWS:

SECTION 1. DECLARATION.

The text of the Zoning Code of the Town of Fishers, Indiana, Ordinance No. 110380, and the Official Zoning Map, Town of Fishers, Indiana, dated November 3, 1980, which accompanies and is part of the Zoning Code of the Town of Fishers, Indiana, as amended, are hereby amended as follows: the Zoning Classification of the following described Real Estate is hereby zoned as PUD-R and this ordinance shall hereinafter be referred to as the Graystone PUD Ordinance: See "Exhibit 1" attached hereto.

SECTION 2. PURPOSE AND INTENT:

The purpose and intent of this PUD-R is to provide an innovative residential use development which promotes creativity and flexibility in the development of the Real Estate.

SECTION 3. LAND USE.

Detached single-unit active adult dwellings are permitted, and all uses described in Section 151.064(B) Residential District R3 are permitted.

SECTION 4. CONCEPTUAL DEVELOPMENT PLAN.

The Concept Plan, attached hereto as "Exhibit 2," is adopted as part of this ordinance. Adoption of the Concept Plan, however, does not constitute approval of any detailed and final development plan; such further approval is subject to the procedures set out in Section 6, below.

SECTION 5. DEVELOPMENT STANDARDS.

The development standards set forth herein replace the otherwise applicable standards set forth in the Fishers Zoning Code and related ordinances.

A. Bulk and Density


Standard	Detached Active Adult
Acres	18.99
Maximum number of units	40
Minimum Lot Area	6867 sq. ft.
Minimum Lot Width ¹	58'
Minimum Lot Depth	113'
Front Yard	25'
Side Yard	12' building separation
Rear Yard	25'
Minimum lot frontage ²	30'
Minimum Floor Area	1,600 sq. ft. - 1-story 1,800 sq. ft. - 2-story
Max. Bldg. Ht. Primary/ Accessory	35'/25'

B. Landscaping

The development of the Real Estate shall be in compliance with the Town of Fishers Landscape Ordinance in effect as of the effective date of this PUD Ordinance.

Residential streets shall have street trees on both sides of the street. Street trees shall be placed on average between 40 - 60 feet on center in a planting strip between the curb and the sidewalk if available. The planting strip shall be a minimum of four feet wide. Within 100' of an intersection, trees may be planted back of sidewalk in order to maintain vision clearance of traffic control signs. Trees shall be deciduous and selected from the Town's approved List of Recommended Species. Street Trees shall be a minimum of two (2) inch caliper, as measured twelve (12) inches from the ground.

C. Architecture - Detached Single-Family Active Adult. The following standards shall apply:

- a. Each residence shall have at least an 8" eave and overhang.
- b. 
- c. Exterior building materials shall include brick, stone, wood, stucco,

¹ To be measured at front building setback line.

² To be measured at the right-of-way line (or at the edge of pavement in the case of a private street).

HARDI PLANK, or wood. T1-11, vinyl and metal are prohibited.

- d. [REDACTED]
- e. Windows shall appear on at least three sides, with the front being one of the three required sides.
- f. A standard mailbox and post, selected by the developer, shall be installed on each residence.
- g. Concrete driveways are required.
- h. Acceptable exterior colors shall generally be defined as earth tones and other traditional colors.
- i. All residences shall have a minimum roof pitch of 8 vertical to 12 horizontal. Special exceptions may be made by the architectural review committee for porches and covered walkways.
- j. Ceilings on the first floor of all residences shall be a minimum of 9 feet.
- k. All residences shall have a limestone address block.
- l. All garages shall be finished and insulated, and shall have automatic garage doors.
- m. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. Active Adult Features

- a. All residences constructed shall feature first floor living with a bedroom on the first floor. [REDACTED]

- b. The homeowners association shall perform the following services:
- The homeowners association shall mow and fertilize the lawns at times and frequencies determined by the homeowners association;
 - Once a year, at a time determined by the homeowners association, the homeowners association shall change the mulch in the landscape beds;
 - The homeowners association shall provide for snow removal from the driveways and the walks up to the residence; and
 - The homeowners association shall collect mandatory assessments for the purpose of funding the obligations of the homeowners association.

E. Conservation/Preservation Plan

The developer of the Real Estate shall work with the Town's development staff to develop a tree preservation plan as part of the platting process for any significant woods located on the south perimeter of the Real Estate. Areas to be preserved shall be contained in a landscape preservation easement ("LPE") at a width to be determined by the Plan Commission at the time of platting. The clearing and clean up of woodlands designated to be preserved shall be minimized so as not to disturb the existing understory habitat (shelter, food source) of the wildlife that may live or visit the woodlands. It is acknowledged that certain areas of the perimeter may not be appropriate for an LPE due to drainage and utility needs.

SECTION 6. PROCEDURES.

The adoption of this ordinance and the subsequent consideration of any detailed and final development Plan shall be consistent and pursuant to the provisions of the Planned Unit Development process as set forth in Section 151.072 Planned Unit Development District.

SECTION 7. APPROVAL.

This ordinance shall be in full force and effect from and after its passage by the Town Council and after the occurrence of all other actions required by law. All provisions or parts thereof in conflict herewith are hereby repealed.

ADOPTED BY THE Town Council of the Town of Fishers, Indiana on this 2nd day of July 2004.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

AYE

BY: _____

Scott H. Fautless
NAY

Scott Fautless,
President

Stuart F. Easley

Stuart F. Easley,
Vice President

Timothy O. Lima

Timothy O. Lima,
Member

Eileen N. Pritchard

Eileen N. Pritchard,
Member

Dan E. Henke

Dan E. Henke,
Member

Charles P. White

Charles P. White,
Member

David C. George
Member

David C. George

ATTEST: Linda Gaye Cordell
Linda Gaye Cordell, Clerk-Treasurer,
The Town of Fishers, Indiana

Approved by: Douglas D. Church, Esq.
Church, Church, Hittle and Antrim
Town Attorney

Prepared by: Steven D. Hardin, Esq.
Bingham McHale LLP, 970 Logan Street, Noblesville, IN 46060

LAND DESCRIPTION

Page 1 of 2

(Shonkwiler Property)

Parcel I:

A part of the East Half of the Northeast Quarter of Section 14, Township 18 North, Range 5 East in Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of the said Half Quarter Section; thence South 02 degrees 00 minutes 00 seconds (assumed bearing) along the West line of the said Half Quarter Section 1311.00 feet; thence North 82 degrees 26 minutes 12 seconds East parallel with the North line of the said Northeast Quarter Section 390.00 feet to the place of beginning; thence continue North 89 degrees 26 minutes 19 seconds East parallel with the said North line 826.07 feet to a point which lies on a line 521.00 feet West of and parallel with the East line of the said Northeast Quarter Section; thence South 00 degrees 01 minutes 42 seconds West parallel with the East line of the said Northeast Quarter Section 280.00 feet; thence South 89 degrees 26 minutes 19 seconds West parallel with the North line of the said Northeast Quarter Section 886.37 feet to a point which bears South 40 degrees 00 minutes 00 seconds from the said place of beginning; thence North 00 degrees 00 minutes 00 seconds parallel with the West line of the said Half Quarter Section 280.00 feet to the place of beginning, containing 21.759 acres, more or less.

Parcel II:

Part of the East Half of the Northeast Quarter of Section 14, Township 18 North, Range 5 East in Hamilton County, Indiana, more particularly described as follows:

Beginning at a point on the West line of the said Half Quarter Section South 00 degrees 00 minutes 00 seconds 1039.00 feet from the Northwest corner thereof; thence North 89 degrees 26 minutes 19 seconds East parallel with the North line of the said Northeast Quarter Section 390.00 feet; thence South 00 degrees 00 minutes 00 seconds parallel with the West line of the said Half Quarter Section 280.00 feet; thence South 89 degrees 26 minutes 19 seconds West parallel with the North line of the said Northeast Quarter Section 390.00 feet to the West line of the said Half Quarter Section; thence North 00 degrees 00 minutes 00 seconds along the said West line 152.00 feet to the place of beginning, containing 2.255 acres, more or less.

NOTE: The acreage indicated in the legal description is solely for the purpose of identifying the said tract and should not be construed as insuring the quantity of land.

Also including:

The entire width of the right-of-way Brooks School Road that is contiguous with the above described real estate. Subject to all legal easements and rights-of-way.

LAND DESCRIPTION
Page 2 of 2

(Sherman Property)

Parcel I:

A part of the East Half of the Northeast Quarter of Section 34, Township 18 North, Range 5 East in Fall Creek Township, Hamilton County, Indiana, more particularly described as follows: Beginning at a point on the West line of said East Half, 1313 feet South of the Northwest corner of said East Half, thence East 265 feet, thence South 328 feet parallel with said West line of the East Half of the Northeast Quarter; thence West 265 feet to a point on said West line; thence North 328 feet on and along said West line to the place of beginning, containing 2 acres, more or less.

Parcel II:

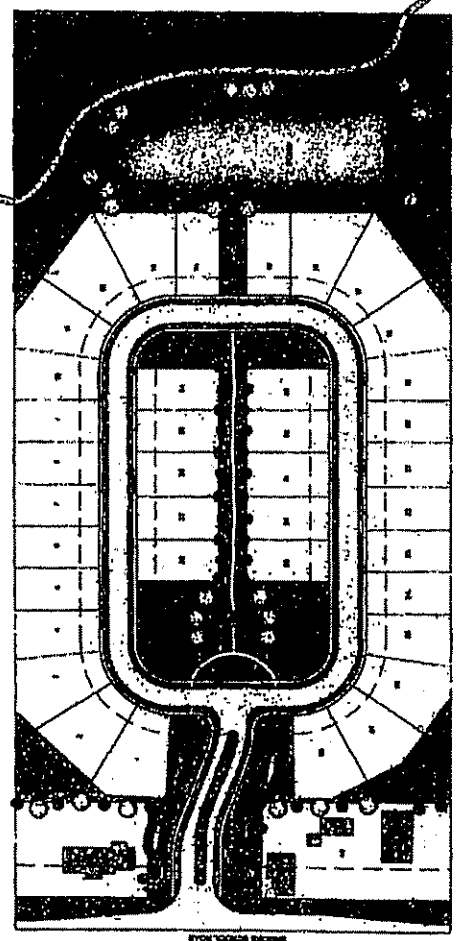
A part of the East Half of the Northeast Quarter of Section 34, Township 18 North, Range 5 East in Hamilton County, Indiana, more particularly described as follows: Commencing at a point on the West line of the said Half Quarter Section South 00 degrees 00 minutes 00 seconds 1321.00 feet from the Northwest corner thereof; thence North 82 degrees 26 minutes 19 seconds East parallel with the North line of said Northeast Quarter Section 168.08 feet to the place of beginning; thence continue North 83 degrees 26 minutes 19 seconds East parallel with the said North line 125.00 feet; thence South 00 degrees 00 minutes 00 seconds parallel with the West line of the said Half Quarter Section 128.00 feet; thence South 89 degrees 26 minutes 19 seconds West parallel with the North line of the said Northeast Quarter Section 125.00 feet; thence North 00 degrees 00 minutes 00 seconds parallel with the West line of the said Half Quarter Section 128.00 feet to the place of beginning, containing 0.941 acres; more or less.

NOTE: The acreage indicated in the legal description is solely for the purpose of identifying the said tract and should not be construed as insuring the quantity of land.

Also including:

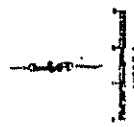
The entire width of the right-of-way Brooks School Road that is contiguous with the above described real estate. Subject to all legal easements and rights-of-way.

GRAYSTONE CONCEPT PLAN



- PAVED AREA
 - LOT AREA
 - CONCERN AREA
 - DRIVEWAY
- 48 LOTS - 2.26 AC.

OWNER: ...
 ARCHITECT: ...
 ENGINEER: ...



ORDINANCE NO. 061704
 AN ORDINANCE ANNEXING CERTAIN REAL ESTATE
 TO THE TOWN OF FISHERS, HAMILTON COUNTY INDIANA

BE IT ORDAINED by the Town Council of the Town of Fishers, Indiana:

SECTION 1. That the real estate containing (16.87) acres more or less legally described in Exhibit A hereto, and generally to be known as the Shonkwiler property (Real Estate), is contiguous to the town limits of the Town of Fishers, Indiana, and the same is hereby annexed to and declared to be a part of the Town of Fishers, Indiana;

-SEE ATTACHED EXHIBIT A-

SECTION 2. The above described real estate is hereby assigned to Town Council District 4 and shall become a part thereof immediately upon the effective date of this ordinance.

SECTION 3. This ordinance shall be in full force and effect in accordance with Indiana law, upon its passage by the Town Council, its publication in accordance with law, and upon the passage of any applicable waiting period, all as provided by the laws of the State of Indiana. All ordinances or parts thereof in conflict herewith are hereby repealed.

ADOPTED BY THE Town Council of the Town of Fishers, Indiana this 20th day of Sept, 2004.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

BY:		NAY
<i>Scott A. Faulless</i>	Scott A. Faulless, President	
<i>Stuart F. Easley</i>	Stuart F. Easley, Vice President	
<i>Timothy O. Lima</i>	Timothy O. Lima, Member	
<i>Eileen N. Pritchard</i>	Eileen N. Pritchard, Member	
<i>Daniel E. Henke</i>	Daniel E. Henke, Member	
<i>Charles P. White</i>	Charles P. White, Member	
<i>David C. George</i>	David C. George, Member	

ATTEST: Linda Gays Cordell DATE: 9-20-04
 Linda Gays Cordell, Clerk-Treasurer, Town of Fishers, Indiana

Approved by: Douglas B. Church; Church, Church, Hittle, and Antrim - Town Attorney

LAND DESCRIPTION

Page 1 of 2

(Shonkwiler Property)

Parcel I:

A part of the East Half of the Northeast Quarter of Section 14, Township 16 North, Range 5 East in Hamilton County, Indiana; more particularly described as follows:

Commencing at the Northwest corner of the said Half Quarter Section; thence South 00 degrees 02 minutes 00 seconds (assumed bearing) along the West line of the said Half Quarter Section 1311.00 feet; thence North 82 degrees 26 minutes 12 seconds East parallel with the North line of the said Northeast Quarter Section 190.00 feet to the place of beginning; thence continue North 83 degrees 26 minutes 13 seconds East parallel with the said North line 886.00 feet to a point which lies on a line 84.00 feet West of and parallel with the East line of the said Northeast Quarter Section; thence South 00 degrees 01 minutes 41 seconds East parallel with the East line of the said Northeast Quarter Section 580.00 feet; thence South 83 degrees 26 minutes 19 seconds West parallel with the North line of the said Northeast Quarter Section 886.37 feet to a point which bears South 00 degrees 00 minutes 00 seconds from the said place of beginning; thence North 00 degrees 00 minutes 00 seconds parallel with the West line of the said Half Quarter Section 580.00 feet to the place of beginning, containing 11.799 acres, more or less.

Parcel II:

Part of the East Half of the Northeast Quarter of Section 14, Township 16 North, Range 5 East in Hamilton County, Indiana, more particularly described as follows:

Beginning at a point on the West line of the said Half Quarter Section South 00 degrees 00 minutes 00 seconds 1639.00 feet from the Northwest corner thereof; thence North 83 degrees 26 minutes 19 seconds East parallel with the North line of the said Northeast Quarter Section 190.00 feet; thence South 00 degrees 00 minutes 00 seconds parallel with the West line of the said Half Quarter Section 252.00 feet; thence South 83 degrees 26 minutes 19 seconds West parallel with the North line of the said Northeast Quarter Section 190.00 feet to the West line of the said Half Quarter Section; thence North 00 degrees 00 minutes 00 seconds along the said West line 252.00 feet to the place of beginning, containing 2.256 acres, more or less.

NOTE: The acreage indicated in the legal description is solely for the purpose of identifying the said tract and should not be construed as insuring the quantity of land.

Also including:

The entire width of the right-of-way Brooks School Road that is contiguous with the above described real estate. Subject to all legal easements and rights-of-way.

LAND DESCRIPTION
Page 2 of 2

(Sherman Property)

Parcel I:

A part of the East Half of the Northeast Quarter of Section 34, Township 12 North, Range 5 East in Fall Creek Township, Hamilton County, Indiana, more particularly described as follows: Beginning at a point on the west line of said East Half, 1911 feet South of the Northwest corner of said East Half, thence East 265 feet, thence South 325 feet parallel with said West line of the East Half of the Northeast Quarter; thence West 258 feet to a point on said West line; thence North 325 feet on and along said West line to the place of beginning, containing 2 acres, more or less.

Parcel II:

A part of the East Half of the Northeast Quarter of Section 34, Township 12 North, Range 5 East in Hamilton County, Indiana, more particularly described as follows: Commencing at a point on the West line of the said Half Quarter Section South 00 degrees 00 minutes 00 seconds 1311.00 feet from the Northwest corner thereof; thence North 89 degrees 26 minutes 19 seconds East parallel with the North line of said Northeast Quarter Section 268.00 feet to the place of beginning; thence continue North 89 degrees 26 minutes 19 seconds East parallel with the said North line 125.00 feet; thence South 00 degrees 00 minutes 00 seconds parallel with the West line of the said Half Quarter Section 325.00 feet; thence South 89 degrees 26 minutes 19 seconds West parallel with the North line of the said Northeast Quarter Section 125.00 feet; thence North 00 degrees 00 minutes 00 seconds parallel with the West line of the said Half Quarter Section 325.00 feet to the place of beginning, containing 9.941 acres; more or less.

NOTE: The acreage indicated in the legal description is solely for the purpose of identifying the said tract and should not be construed as insuring the quantity of land.

Also including:

The entire width of the right-of-way Brooks School Road that is contiguous with the above described real estate. Subject to all legal easements and rights-of-way.



Town of Fishers

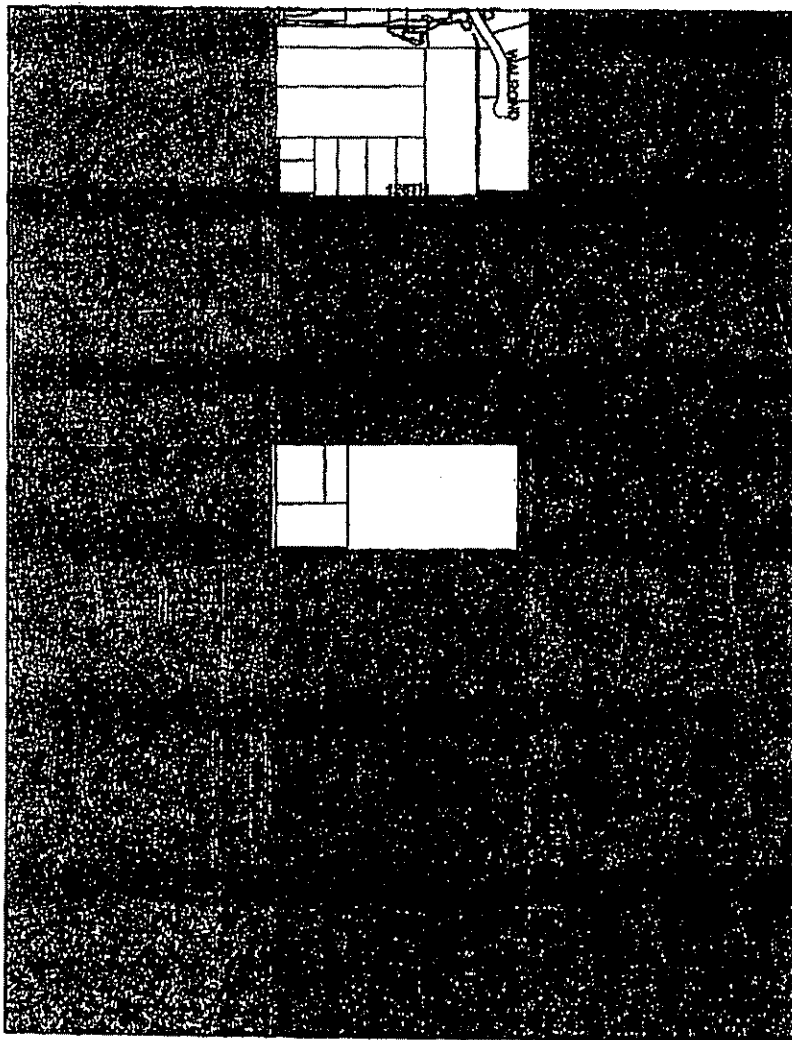
Town Council

Scott A. Pauldest
Suzart F. Besley
Timothy G. Linn
Ellen N. Pichard
Daniel E. Henke
Charles P. White
David C. George




Chief-Administrator

Linda Gye Cordell

**6-IZ-04, Shonkwiler and Sherman Property
Proposed Initial Zoning and Annexation**



Legend

-  Parcel Lines as of February, 2004
-  Corporate Boundaries as of January, 2004
-  6-IZ-04, Shonkwiler and Sherman Property

Town of Fishers
Development Department
One Municipal Office
Fishers, Indiana 46038
www.fishers.in.us
March, 2004



NOT TO SCALE

1600
B

**FIRST AMENDMENT TO
DECLARATION OF COVENANTS AND RESTRICTIONS
OF GRAYSTONE**

This First Amendment to Declaration of Covenants and Restrictions of Graystone ("First Amendment") is made this 18 day of August, 2006, by Hills BrookschooL, LLC, an Indiana limited liability company (the "Declarant").

WITNESSETH:

WHEREAS, on December 20, 2005, Declarant filed in the Office of the Recorder of Hamilton County, Indiana, as Instrument No. 2005-00081593, a Declaration of Covenants and Restrictions of Graystone (the "Declaration");

WHEREAS, Declarant desires to amend Section 10(f) of the Declaration to reflect a change in the Duties of the Board of Directors (as such capitalized terms are defined in the Declaration) to be consistent with the Code of Bylaws for the Graystone Homeowners Association, Inc.; and

WHEREAS, Declarant is executing this First Amendment pursuant to Section 21(b) of the Declaration.

NOW, THEREFORE, the Declaration is amended as follows:

1. The Recitals set forth above are hereby incorporated by reference. In the event of any inconsistency between the provisions of this First Amendment and the Declaration, the terms and provisions of this First Amendment shall govern and control. Any capitalized term not otherwise defined herein shall have the meaning ascribed to it in the Declaration.

2. Section 10(f) of the Declaration is deleted in its entirety and replaced with the following:

(f) Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including, but not limited to, providing for the administration of the Corporation, the management, maintenance, repair, upkeep and replacement of the Common Area and certain components of the Lots as set forth in the following subparagraphs (x) and (xi) and the collection and disbursement of the Common Expenses. The Board may, on behalf of the Corporation and in accordance with paragraph 11, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out the Board's duties and the Corporation's responsibilities, which include, but are not limited to:

200600050409
Filed for Record in
HAMILTON COUNTY, INDIANA
JENNIFER J HAYDEN
08-28-2006 At 08:31 am.
AMEND DECL 1 16.00

- (i) Protection and replacement of the Common Area;
- (ii) Maintenance, repair, upkeep and replacement of the Common Area, including but not limited to, the maintenance, repair, upkeep and replacement of the following (if any and if located within the Common Area): (1) signage, (2) walls, fences, gates and other structures, (3) flowers, plant material, grass and other landscaping, (including mulching landscape beds at least once per year) (4) irrigation systems, (5) lighting, and (6) storm water management and detention areas and systems;
- (iii) Compliance with the Zoning Commitments contained within the Town of Fishers' Ordinance 051704A, which Zoning Commitments are attached hereto as Exhibit B;
- (iv) Assessment and collection from the Owners of each Owner's respective share of the Common Expenses;
- (v) Preparation of the proposed annual budget, a copy of which will be delivered to each Owner at the annual meeting;
- (vi) Preparing and delivering annually to the Owners an accounting of all receipts and expenses incurred in the prior year;
- (vii) Procuring and maintaining for the benefit of the Corporation and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;
- (viii) Paying taxes assessed against and payable with respect to the Common Area and paying any other necessary expenses and costs in connection with the Common Area;
- (ix) Trash removal from the Real Estate in accordance with the rules and regulations established by the Board;
- (x) Cutting the established lawn located on any Lot and fertilizing the lawn as frequently as deemed necessary by the Board of Directors in its sole discretion. However, the Owner of such Lot shall be solely responsible for watering and weeding the grass; edging around fences, shrubs, bushes, trees and any other improvements; leaf removal, and caring for and maintaining any landscaping (including, without limitation, shrubs, trees, bushes, flowers or plants) as required by the Zoning Commitments and provided, further, that the Owner shall be solely responsible for cutting any grass and fertilizing any lawn located inside any fenced area of the Lot. All children, toys, pets and other obstructions must be removed from the yard by the Owner during the time such maintenance activities occur.

(xi) Snow removal from driveways and sidewalks as and when warranted by weather conditions; provided, however, such snow removal shall not be required unless there is at least two (2) inches of snow accumulated. The Owner shall provide safe, regular and reasonable access to such area to the Corporation and its authorized representatives. All children, vehicles, pets, toys and other obstructions or hazards shall be removed by the Owner from the driveways and sidewalks during the time snow removal activities occur.

3. All provisions of the Declaration not expressly modified or amended hereby shall be reinstated and remain in full force and effect.

IN WITNESS WHEREOF, the undersigned has caused this First Amendment to be executed as of the day and year first above written.

HILLS BROOKSCHOOL, LLC

By: [Signature]
Ian Guttman, Vice-President

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Ian Guttman, by me known to be the Vice-President of Hills Brookschool, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing "First Amendment to Declaration of Covenants and Restrictions of Graystone" on behalf of said limited liability company.

WITNESS my hand and Seal this 18 day of AUGUST, 2006.



WENDY S. BASSMAN
Notary Public, State of Ohio
My Commission Expires
June 19, 2010

Wendy A Bassman
Notary Public

Wendy S. Bassman
(Printed Signature)

My Commission Expires:
June 19, 2010

My County of Residence:
Hamilton County, Ohio

This instrument prepared by Tammy K. Haney, BOSE McKINNEY & EVANS LLP, 600 East 96th Street, Suite 500, Indianapolis, IN 46240; 317-684-5300.

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

(name) Tammy Stucky