

deficits must be fixed at a uniform rate for all Lots not owned by the Declarant. Lots owned by the Declarant shall be assessed at a rate equal to twenty-five percent (25%) of the regular and special assessment on all other Lots, excluding any portion of such assessment collected for access to outside recreational facilities. Assessments may be collected on a monthly basis.

Section 7: Date of Commencement of Monthly Assessments:

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

Section 8: Effect of Non-Payment of Assessments:

Remedies of the Association: If any assessment (or monthly installment of such assessment, if applicable) is not paid within thirty (30) days of the date when due (pursuant to Section 7 hereof), then the entire unpaid assessment shall become delinquent and shall become, together with such interest thereon at the rate of eight percent (8%) per annum from the due date, and cost of collection thereof as hereinafter provided, a continuing lien on the Lot and shall bind upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner shall remain his personal liability.

gation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, from the due date, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided and a reasonable attorney fee to be fixed by the court, together with the costs of this action.

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

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

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

ARTICLE VIII

Declarant's Rights

Declarant reserves the right to use any of the Lots as models and to sell, assign or conduct other businesses in connection with the construction and development of the project from any of such Lots prior to their being sold. This reservation of right or privilege in Declarant includes, but is not limited to, the right to maintain a model, erect signs, maintain an office, staff the office with employees, and to show Lots then unsold. Declarant retains the right to be considered an Owner of any Lot that remains unsold. Declarant also reserves the right to make changes in the location or manner of construction of buildings and other improvements. Declarant further reserves the right, until the first conveyance of a Lot to a resident Owner, to amend the Declaration by the recording of an amended declaration.

ARTICLE IX

Maintenance

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

To the extent that equipment, facilities and fixtures within any Lot shall be connected to similar equipment, facilities or fixtures affecting or serving other Lots, then the use thereof by the Owner of such Lot shall be subject to the rules and regulations of the Association. The authorized representatives of the Association or Board of Directors or the manager or managing agent for the Association shall be entitled to

reasonable, and may be required in connection with maintenance, equipment, facilities or fixtures affecting or involving other lots.

Section 2: Maintenance of Driveway Easements. The Association shall be responsible for the maintenance, repair and repaving of all Driveway Easements.

Section 3. Exterior Maintenance Obligations of Association with Respect to Lots. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building and surfaces, the paved portions of the Driveway Easements and of the front walks, and other exterior improvements, lawns, shrubs, trees and trash removal. Such exterior maintenance shall not include glass surfaces, doorways, windows, and window frames.

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

ARTICLE X Insurance

Section 1. Casualty Insurance on Insurable Common Area.
The Association shall keep all insurable improvements and fixtures of the Common Area insured against loss or damage by fire for the full insurance replacement cost thereof, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss by damage by fire and such other risks as the Association may deem desirable, with the condition as to owner and beneficiary of such insurance. The Association, with respect to the Common Area, shall

carried by the Association are Common Expenses included in the Common Assessments made by the Association.

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

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

Section 2: Liability Insurance. The Association shall

(1) obtain a master comprehensive public liability insurance policy in such amount as the Board of

Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Association's obligations under this Declaration, its Articles of Incorporation and By-Laws.

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

Section 2. Monthly Assessment for Insurance. The premium for all such insurance hereinabove described shall be paid by the Association, and the pre-rata cost thereof shall become a liability monthly assessment to which each lot shall be subject in accordance with the provisions of Article VII. Each Owner shall be deemed to have authorized at the time his lot is conveyed to such Owner to pay to the Association, in addition to all monthly insurance assessments, the pre-rata cost of the prepayment account at all times when the Association shall be required to prepay for the same. The Association shall have the right to withhold any amount due for the same until the same has been received in full. When the Association shall have received all such amounts, it shall be deemed to have received the same.

the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner or Mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

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

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

provided for in this paragraph, for restoration. Damage to or

loss of property shall be covered by any other casualty or

insurance policy which is not covered by the

Association and the proceeds of insurance, if any, shall be applied for that purpose.

Section 7. Replacement or Repair of Property. In the event of damage to or destruction of any part of the Common Area Improvements, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Reconstruction Assessment against all Lot Owners to cover the additional cost of repair or replacement not covered by the insurance proceeds, in addition to any other Common Assessments made against such Lot Owners.

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

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

Section 8. Surplus of Insurance Proceeds. In the event that there is a surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums shall be distributed to the Owners of the buildings affected and their Mortgagees who are the beneficiaries of the fund. The actions of the Board of Directors shall constitute the repair or reconstruction of damage shall not constitute a release of liability against any Owner for committing

any act or omission which caused the damage. All insurance proceeds shall be held in trust by the Board of Directors for the purposes aforesaid. The Board of Directors shall have the authority to expend the proceeds of insurance in such manner as it deems proper.

ARTICLE XI

Easements

Section 1. Drainage, Utility and Sewer Easements.
There are strips of ground marked "Drainage, utility, utility and sewer, and sanitary easements (D.E. - U.E. - U.S.E. - S.E.)" shown on the Plat which are hereby reserved for public utilities, not including transportation companies, for the installation and maintenance of poles, mains, sewers, drains, ducts, lines, wires and the like. The Association and the Owners of Lots shall take title subject to the easements hereby created and subject at all times to the rights of the proper authorities to service the utilities and the easements hereby created. No permanent structure of any kind, and no part thereof, including fences, shall be built, erected or maintained on said drainage, utility and sewer easements except walkways and paving on the Driveway Easements located in a Common Area but not in a dedicated right-of-way.

Section 2. Driveway Easements. Driveway Easements as specified in Article IV, Section 2, are hereby reserved for the use and enjoyment of the Owner of the Lot, their families and invitees. Such Driveway Easement shall not be used for parking of trucks or other commercial vehicles, except temporarily or incidentally for the making of pickups and deliveries to neighboring lots. No velocipedes, bicycles, toys or other private property shall be allowed to obstruct any Driveway Easement, nor shall the same be stored in the open alongside building walls or other locations of public view. Cars, trucks and other vehicles shall not be parked on the paved portion of any Driveway Easement so as to impede access from or to any other Lot which such easement serves or public street. No fence, barrier or other obstruction of any kind shall ever be placed or constructed on any Driveway Easement without the prior written consent of the

which is built as a part of the original construction of all the homes upon the Properties and placed on the dividing lines between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or wilful acts or omissions shall apply thereto.

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

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

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

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to whoever acquires it in title.

Section 6. Arbitration. In the event of any dispute between any two Owners as to the application of the provisions of this Article, the Owners shall refer the matter to an arbitrator and such arbitrator shall be the final authority in the matter, and the decision of the arbitrator shall be binding on the parties.

ARTICLE XIII

Architectural Control

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein, including window air conditioners, other than by Declarant, be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefor as above provided. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE XIV

Signs and Home Occupations

Section 1. Signs. Prior to the sale of the last lot in the Properties by Declarant, no advertising signs of any kind other than small window signs shall be displayed on any lot and no signs shall be placed on any lot without the written approval of Declarant. Further, no signs shall be placed on any lot which identify, advertise or in any way promote any business, profession, trade, service or occupation.

Declarant shall have the right to remove any signs which are in violation of this Article and shall not be liable for any damage to or destruction of any signs so removed.

Declarant in the sale of Lots or Dwelling Units as a part of the development of this subdivision.

ARTICLE XV

Encroachments and Easements for Buildings

If, by reason of the location, construction, settling or shifting of a Building, any part of a Building consisting of the single-family residence appurtenant to a Lot (hereinafter in this Article referred to as the "Encroaching Lot") now encroaches or shall hereafter encroach upon any other adjacent Lot, then in such event, an easement shall be deemed to exist and run to the Owner of the Encroaching Lot for the maintenance, use and enjoyment of the Encroaching Lot and all appurtenances thereto.

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 or on any other Lot and serving his Lot.

ARTICLE XVI

Prohibited Activities

Section 1. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. Any mess created by each animal outside of the Dwelling Unit shall be promptly cleaned up by the animal's owner.

Section 2. Waste Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage.

Any rubbish or garbage shall be kept only in sanitary containers and in accordance with state equipment for the storage and disposal of such waste shall be kept in a clean and sani-

ty condition. No person shall dump or dispose of any refuse, garbage, or other material in any place other than in accordance with the provisions of this Article.

Section 4. Window Air Conditioners. Window air conditioners may only be placed in the rear of the Dwelling Unit. Use, placement, type and location of any window air conditioner shall be considered an exterior improvement subject to Article XIII.

Section 5. Certain Vehicles Prohibited. Any motor vehicle which is inoperative and not being used for normal transportation shall not be permitted to remain on any Lot.

Section 6. Drainage. Any field tile or underground drain which is encountered in the construction of any improvements on any Lot shall be perpetuated and the Association as well as all Owners of Lots and their successors shall comply with the Indiana Drainage Code of 1965, and all amendments thereto.

Section 7. Construction and Sale Period. Notwithstanding any provisions contained herein to the contrary, it shall be expressly permissible for Declarant to maintain, during the period of construction and sale of Lots, upon such portion of the Properties as Declarant may deem necessary, such facilities as in the sole opinion of Declarant may be reasonably required, or convenient or incidental to the construction and sale of the Lot, including, but not without limitation, storage areas, signs, model residences, construction offices, sales offices and business offices.

ARTICLE XVII Mortgagee's Rights

Section 1. Release of Mortgage of a Lot. In addition to the obligations of the Association, a mortgagee of a Lot shall be entitled to receive written notification within sixty (60) days after its completion of the construction and installation of the Association or its successors. The request for such notification shall be made in writing, and

than the 95th day after the occurrence of an uncured default.

Section 2. Rights of First Refusal. Any right of first refusal now or hereafter contained in this Declaration or any amendment or modification hereto or otherwise arising in favor of the Association or certain Owners of Lots shall not apply to or preclude or impair in any way the right of the first mortgagee to (i) foreclose or take title to any Lots or to remedies provided in its mortgage; (ii) accept a deed or assignment in lieu of foreclosure in the event of a default under the mortgage; or (iii) sell or lease a unit required by the mortgage.

Section 3. Rights of Mortgagee. Unless at least seventy-five percent (75%) of the first mortgages (based upon one vote for each first mortgage) appear at a meeting, prior written approval, by the Association, shall not be required.

Notwithstanding the foregoing, in the event of a foreclosure, partition, liquidation, dissolution, or other event which results in a change of ownership of the Association, the Association shall not be bound by the provisions of this Section 3. The Association shall not be bound by the provisions of this Section 3 in the event of a foreclosure, partition, liquidation, dissolution, or other event which results in a change of ownership of the Association.

Notwithstanding the foregoing, in the event of a foreclosure, partition, liquidation, dissolution, or other event which results in a change of ownership of the Association, the Association shall not be bound by the provisions of this Section 3.

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... (based on current replacement costs).
... insurance proceeds for losses to any
... repair, replacement or reconstruct-
... Award.

... Right to Examine Books and Records.
... have the right to
... the books and records of the Association.

... Liability and Insurance. ... mortgagees of
... other charges which are

... liability insurance
... lapse of

... using such
... from the
... agreement to
... deliver of
... mortgage

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Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, DEVELOPMENTS, INC. by Robert K. Yeager, president and Virginia M. Yeager, Secretary, has caused this Declaration to be executed this 26 day of August, 1981.

DEVELOPMENTS, INC.

By: Robert K. Yeager, President

Attest:

Virginia M. Yeager, Secretary

STATE OF INDIANA

County of Madison

I, Robert K. Yeager, Notary Public in and for said County and State of Indiana, do hereby certify that Robert K. Yeager, President, and Virginia M. Yeager, Secretary, of Developments, Inc., an Indiana corporation, each of whom, after having been first duly sworn, acknowledged the execution of the foregoing Declaration for and in behalf of said corporation.

My commission expires 12/31/82.

Robert K. Yeager
Notary Public

Printed

Notary Public for Madison County

