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For amendment
See Bk. 187 Pg. 266-274
Recorded 5-19-86

For amendment
See Bk. 187 Pg. 275-290
Recorded 5-19-86

For Lis Pendens Notice
See 9106133 Rec. 3-22-91

For Amended Declaration
See 9005732 Rec. 3-15-90

31753

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
BEACHPLACE

RECEIVED FOR RECORD
FEB 26 3 24 PM '82
MARY L. CLARK
RECORDER
HAMILTON CO., IND.

This Instrument Recorded Feb. 26 1982
MARY L. CLARK, RECORDER, HAMILTON COUNTY, IND.

For amendment
See Bk. 173 pg. 216
Recorded - 1-24-83

For amendment
See Bk. 175 Pg. 445
Recorded - 8-24-83

For amendment
See Bk. 179 Pg. 942
Recorded 9-11-84

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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
BEACHPLACE

THIS DECLARATION, made on the date hereinafter set for by Beachplace Associates, Inc., an Indiana corporation, (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant is the sole owner of the fee simple title to certain real estate in Cicero, County of Hamilton, State of Indiana, which is more particularly described in Exhibit "A", attached hereto and referred to as the "Tract", "Properties" or "Section I".

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

ARTICLE I

Name

This subdivision shall be known and designated as Beachplace, subdivision located in Cicero, Hamilton County, Indiana.

ARTICLE II

Definitions

Section 1: "Association shall mean and refer to Beachplace Homeowners Association, Inc., an Indiana not-for-profit corporation, and its successors and assigns.

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

Section 3: "Properties" shall mean and refer to t certain real property described in Exhibit "A", and such add tions thereto as may hereafter be brought within the jurisdic of the Association, but does not include the personal propert the Owners.

Section 4: "Common Area" shall mean all real prope (including the improvements thereto) owned by the Association the common use and enjoyment of the owners and shall include exclusive driveway easements, exclusive parking easements, drainage, and utility easements as designated on a recorded pla The Common Area to be owned by the Association at the time of t conveyance of the first lot.

Section 5: "Declarant" or "Developer" shall mean and refer to Beachplace Associates, Inc., an Indiana corporation, its successors and assigns, if such successors or assigns should acquire undeveloped lots for the purpose of development.

Section 6: "Plat" shall mean and refer to the subdivision plat of the Properties recorded in the office of the Recorder of Hamilton County, Indiana, as the same may be hereafte amended or supplemented.

Section 7: "Drive Easements" shall mean and refer to the surface easements for vehicular ingress and egress appurtenant to the Lots.

Section 8: "Lot" shall mean and refer to any parcel of land designated as such upon the Plat. With respect to any Dwelling Unit that may be constructed on a part of more than one of such parcels, "Lot" shall mean and refer to the real estate conveyed in connection with such Dwelling Unit.

Section 9: "Building: shall mean and refer to any single family dwelling unit that may be constructed on a part of more than one (1) Lot.

Section 10: "Dwelling Unit" shall refer to each one of the single family portions of any Building.

Section 11: "Board of Directors" shall mean and refer to the Board of Directors of the Association.

ARTICLE III

Lots

Section 1: Number of Lots. This subdivision consists of twenty-eight (28) Lots numbered 1 thru 28, both inclusive, with streets and Common Area as shown on the Plat.

Section 2: Land Use. All Lots shall be used exclusively for single family residential purposes.

Section 3: Conveyance of Lots. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the covenants, conditions and restrictions contained herein.

ARTICLE IV

Property Rights

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

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

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

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members.

Section 2: Delegation of Use. Any Owner may delgate, in accordance with the By-laws, his right of enjoyment to the Common Area, Dwelling Unit or Driveway Easement and any facilities located thereon to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3: Parking Rights. In addition to the exclusive use of the respective attached garages upon the Lots, ownership of each Lot shall entitle an Owner, or Owners thereof to the use of exclusive parking space easements and exclusive driveway easements as shown on the recorded Plat of the Properties.

Section 4: Title to Common Area. The Declarant shall convey the Common Area to the Association, in fee simple absolute, prior to, or at the time of the first conveyance of a Lot, such conveyance to be subject to taxes current, but unpaid at the time of conveyance, and to restrictions, conditions, limitations, and easements of record.

ARTICLE V

Easements and Encroachments and Rights of Access

Section 1: Utilities, Public Officials, the Association and Declarant. There is hereby created a blanket easement upon, across, over and under all of the Properties for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to, water, sewers, gas (if available), telephones, electricity, and a master television antenna system. By virtue of this easement, it shall be expressly permissible for the company providing electrical service and/or the telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of dwelling units.

An easement is further granted to all police, fire protection, ambulance, and similar persons, to enter upon the streets and Common Area in the performance of their duties.

Further, an easement is hereby granted to the Association, its officers, agents and employees, and to any management company selected by the Association to enter in, or to cross over the Common area and any lot and dwelling units, lots or Common Area provided for herein or other duties required in this Declaration. This easement is also reserved for the Declaration.

Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Declarant, or thereafter approved by Declarant or the Association's Board of Directors. Should any utility furnishing a service covered by the general easement herein provided, request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on said Properties, without conflicting with the terms hereof. The easements provided for in this Article V shall in no way affect any other recorded easement on said premises.

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: Easements for Encroachment. If any part of the Common area encroaches upon any Lot or building thereon, a valid easement for such encroachment, and the maintenance thereof, so long as it continues, shall, and does, exist. If any part of any Lot or the building thereon encroaches upon the Common Area or upon another Lot, or Lots, a valid easement for

such encroachment shall, and does, exist. In the event that any building upon a Lot in the Properties shall be partially or totally destroyed and then rebuilt, minor encroachments of the building upon the Common area, or other Lots, including, but not limited to, eaves and roof over-hang, valid easements for such encroachments, and the maintenance thereof, shall exist.

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Section 3: 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.

Section 4: Developer's Easement to Correct Drainage. For a period of five (5) years from the date of conveyance of the first Lot in the Properties, the Developer reserves a blanket easement, and right, on, over, and under, the ground within the Properties, to maintain and to correct drainage of surface water in order to maintain reasonable standards of health, safety, and appearance. Such right expressly includes the right to cut any trees, bushes, or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary, following which, the Developer shall restore the affected property to its original condition as near as practicable. The Developer shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Developer, an emergency exists, which precludes such notice.

Section 5: Access Rights of Association. If any Owner shall fail to adequately maintain the open area and the Dwelling Unit included within his Lot, the Association upon the giving of

ten (10) days written notice to such Owner, shall have the right to enter upon such open area and do any necessary maintenance thereon. The cost of such maintenance shall be a special assessment against such Lot and the Owner thereof.

Section 6: Driveway Easement. Each Dwelling Unit will be connected to a street by a driveway, a portion of which will lie in the Common Area. As to such driveway portion, the Owner of the Dwelling Unit served by the same, shall have an exclusive easement of enjoyment to it, and it shall be considered a limited common area. No other Owner shall have the right to its use for any purpose.

Driveway Easements 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 commerical 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 Association.

Section 7: Exclusive Limited Easement to Shorewood Corporation. So long as The Shorewood Corporation (an Indiana corporation) or its successor owns or operates boat dock facilities on or adjoining the Properties' shoreline or beach, said corporation, its employees, contractors, or agents, may enter on to Properties by way of the nearest private drive or common area walkway directed toward said boat docks for the purpose of installing or maintaining such facilities.

Section 8: Recorded Restrictions in Favor of the Indianapolis Water Co. There are certain recorded restrictions affecting the Properties that run in favor of Indianapolis Water Co. These should be read and understood by each owner.

ARTICLE VI

Association, Membership and Voting Rights

Section 1: Membership. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2: Classes of Membership. The Association shall have two (2) classes of voting membership:

Class A: Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B: The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

i) when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, or

ii) on the first day of January, 1990.

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

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

(a) access by all Owners to recreational and social facilities located outside of the Properties;

(b) security services upon the Properties;

(c) assessment billing services;

(d) professional management services; and,

(e) snow removal and lawn care services.

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

Any agreement for the professional management of the Properties or Common Area, or any other contract providing for the services of the Declarant, sponsor or builder, may not exceed three (3) years and shall provide for termination by either party without cause and without payment of a termination fee on ninety (90) days, or less, written notice.

ARTICLE VII

Covenant for Maintenance Assessments

Section 1: Creation of the Lien and Personal Obligation of Assessment: Declarant, for each plotted Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: 1) monthly assessments or charges; (2) special assessments for capital improvements and operating deficits; and (3) special assessments as provided in Article V, Article VI and Article IX; such assessments to be established and collected as hereinafter provided. Any unimproved Lot that has not been conveyed by Declarant shall be assessed at a rate of twenty-five percent (25%) of the other Lots, excluding any assessment for access to recreational facilities. The monthly and special assessments, together with interest, costs, and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

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

Section 3: Maximum Annual Assessment: Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be NINE HUNDRED AND 00/00----- Dollars ($900.00---------) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership unless such increase is pursuant to sub-section (b) hereafter.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment per Lot may also be increased each year without a vote of the membership, in conformance with the Consumer Price Index (CPI) published by the U.S. Department of Labor, specifically the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average, All Items, unadjusted for seasonal variation. The maximum assessment for any year shall be the amount determined by (a) taking the dollar amount specified above in the first sentence of this Section, (b) multiplying that amount by the published CPI number for the third month prior to the beginning of the subject year and (c) dividing that resultant by the published CPI number for the third month prior to the month in which this Declaration was signed by the Declarant.

(c) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment amount specified above in the first sentence of this Section and used in the above CPI adjustment formula may be changed by a vote of the members, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by

proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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

Section 4: Special Assessments for Capital Improvements and Operating Deficits: In addition to the monthly assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5: Notice and Quorum for any Action Authorized under Sections 3 and 4: Written notice of any meeting necessary for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6: Uniform Rate of Assessment: Both monthly and special assessments for capital improvements and operating deficits must be fixed at a uniform rate for all Lots not owned

[illegible] 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 deliquent and shall become, together with such interest thereon at the rate of fourteen percent (14%) per annum from the due date, attorney fees and cost of collection thereof as hereinafter provided, a continuing lien on such Lot, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of fourteen percent (14%) 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 reason-able 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: Collection by Mortgagee. Nothing in this Declaration shall be construed as prohibiting any first mortgagee from collecting the assessments due as a part of, or in addition to, any monthly payment due the mortgagee, provided, any mortgagee collecting assessments from any owner, shall pay said assessments when they become due.

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ARTICLE VIII

Declarant's Rights

Section 1: Control of Development. 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 considerd 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.

Section 2: Use of Property. Declarant reserves the right to grant easements for utilities and other reasonable purposes across the Common Area, 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 the Declarant includes, but is not limited to, the right to maintain models, erect signs, maintain an office, staff the office with employees, and to the use of any and all of the Common Area and to show Lots then unsold. Any improvements placed on the Properties for the purpose of such sales, such as signs, telephones, or any other promotional items, shall not be considered as a part of the Common Area, nor attachments thereto, but shall remain the property of the Declarant, and may be removed at any time convenient to the Declarant. The Declarant retains the right to be considered as 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.

Section 3: Management. So long as Declarant owns twenty-five percent (25%) of the Lots in the Properties (or owns, or has a contract to purchase, any property that may be annexed thereto), the Declarant shall, at its option, have the right to perform the functions of the Association and to manage the Properties. Declarant's right to manage shall include the right to manage the Common Area, to set annual assessments subject to the limitations herein contained, and to adopt rules and regulations governing the use of the Properties. Such rights shall be subject to the following:

(a) Declarant may manage, or cause to be managed, the Properties, and it shall have the right to assess and collect the maximum annual assessment as set forth in Article IV above. Also, Declarant may increase the amount of the annual assessment, so long as such increase shall not exceed the maximum percentage increase permitted by such Article IV, Section 3, without vote of the Members, unless a greater increase is approved by the membership as therein provided.

(b) Declarant shall have the right to transfer the management of the Properties, or any part thereof, to the Association, at any time it believes that the Association is able to manage the Properties without undue difficulty. The Declarant's right to manage the Properties shall expire, when seventy-five percent (75) of the Properties have been sold, or when Declarant owns no portion (or holds no right to acquire the fee in any portion) of certain adjacent property, described in Article VIII, Section 4, whichever shall occur later. So long as the management of the Association is being borne by the Declarant, the rights of the Association to manage the Properties and set assessments shall be suspended.

(c) Declarant will pay deficiencies in usual and ordinary operating expenses during the period of time of the initial project construction.

Section 4: Declarant's Easement for Adjoining Property. Certain other Properties may be annexed to the Properties as provided in Article VIII, Section 4 hereof. Declarant reserves unto itself, its successors and assigns, a nonexclusive easement over the streets, driveways, and walks of the Properties in order to provide access through the Properties to and from such adjoining property. Declarant further reserves the right to connect to, extend and utilize the utilities that will be located on the Properties. Declarant further reserves the right to permit future owners of all, or any portion, of such adjoining property, their tenants, invitees, and guests, to use the recreational facilities of the Common Area, provided that such persons pay a pro rata share of the operating and maintenance cost of such

recreational facilities, and that all persons having the right to use the same shall abide by the reasonable rules and regulations adopted by the Association governing such use.

Section 5: Construction and Sale Period. Not withstanding any provisions contained herein to the contrary, it shall be expressly permissible for the Declarant to maintain, during the period of construction and sale of Lots, upon such portion of the Properties as the Declarant may deem necessary, such facilities, as in the sole opinion of the Declarant may be reasonably required, or be convenient or incidental to the construction and sale of the Lots, including, but without limitation, storage areas, construction yards, signs, model residences, construction offices, sales offices, and business offices.

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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 access to any Lot as may be required in connection with maintenance, repairs or replacements of or to any equipment, facilities or fixtures affecting or serving other Lots.

Section 2: Maintenance of Driveway and Parking Easements. The Association shall be responsible for the maintenance, repair and repaving of all Driveway and Parking 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, and other exterior improvements, lawns, shrubs, trees, trash removal the paved portions of the Driveway Easements and front walks. 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 willful or negligent act of the Owner, his family, guests or invitees, and not covered and paid in full by insurance on such Lots, 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 and Taxes

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 other hazards and casualties as the Association may deem desirable. The Association may also insure any other property whether real or personal, owned by the Association, against loss by damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The insurance coverage, with respect to the Common Area, shall be written in the name of, and the proceeds thereof shall be payable to, the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for

which the insurance was carried. Premiums for all insurance carried by the Association are Common Expenses included in the Common Assessments made by the Association.

In addition to casualty insurance on the Common Area, the Association, through the Board of Directors, shall 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 Associatiion. The insurance coverage with respect to the Dwelling Units shall be written in the name of, and the proceeds thereof shall be payable to, the Association as Trustee for the homeowners.

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

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

BOOK 168 PAGE 524

may come to act as agents or employees of any of the foregoing with respect to the Association's obligations under this Declaration, its Articles of Incorporation and By-Laws.

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

Section 3. Included Assessment for Insurance. The premiums for all such insurance hereinabove described shall be paid by the Association and the pro-rata cost thereof shall be included in the regular monthly (unless amended to a quarterly or annual) assessment to which each Lot shall be subject under the terms and provisions of Article VIII. Each Owner shall prepay to the Association at the time his Lot is conveyed to such Owner an amount equal to thirteen (13) monthly insurance assessments and shall maintain such prepayment account at all times. The Association shall hold such funds in escrow for the payment for the purchase of insurance as herein provided. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination thereof shall be promptly furnished to each Owner 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.

BOOK 168 PAGE 525

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

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

Section 6: Casualty and Restoration. In the event of damage or destruction of any of the Properties, then the Association shall cause such damaged or destroyed property to be promptly repaired and restored. The proceeds of the insurance carried by the Association and Owner covering their respective obligations hereunder shall be applied to such repair and restoration. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Association, the Board of Directors shall, with

concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal Governmental Agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The board of Directors shall advertise for sealed bids with any contractor who shall be required to provide a full performance and payment bond for the repair, reconstruction, or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all Owners of the damaged homes, in such proportions as the Board of Directors deem fair and equitable in the light of the damage sustained by such homes, to make up any deficiency, except, that the special assessment shall be levied against all home Owners, as provided in this Declaration, to make up any deficiency for repair or rebuilding of the Common Area not a physical part of a home. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgagees and owners, in such proportions as the Board of Directors deem fair and equitable in light of the damage sustained by such homes. Such payments shall be made to all such owners, and their mortgagees, as their interests may then appear. In the event of damage or destruction by fire or other casualty to any home or other property covered by insurance written in the name of an individual owner, said owner shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to repair or rebuild such damaged or destroyed portions of the exterior of the home in a good workmanlike manner in conformance with the original plans and specifications of said home.

BOOK 168 PAGE 527

In the event such owner refuses or fails to so repair and rebuild any and all such damage to the exterior of the home within Sixty (60) days, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such owner, to repair and rebuild any such home in a good and workmanlike manner, in conformance with the original plans and specifications of the home. The owner shall then repay the Association in the amount actually expended for such repairs, and the Association shall have a lien securing the payment of same, identical to that provided above in this Declaration, securing the payment of assessments and subject to foreclosures as above provided. At any place in this Section where the word "home" or "homes" is used, it shall mean the structure erected upon a Lot within the Properties regardless of its use.

BOOK 168 PAGE 528

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

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

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

Section 8. Surplus of Insurance Proceeds. In the event that there is a surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums shall be distributed to the Owners

of the Buildings affected and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing wilful and malicious damage.

BOOK 168 PAGE 529

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

Section 10: Taxes. Each Owner shall pay all installments of real estate taxes on the Lot, or Lots, owned by him. In the event that any installment of such taxes becomes delinquent, then the Association shall have the right to pay such installments, and any amount so paid by the Association shall become a lien on such Owner's property, in accordance with the provisions in Article VII, Section 1 of this Declaration.

ARTICLE XI

Party Walls

Section 1. General Rules of Law to Apply. Each wall 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.

BOOK 168 PAGE 550

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

Section 5. Right to 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 such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one (1) arbitrator and such arbitrators shall choose one (1) additional arbitrator, and the decision binding on each disputing party shall be by a majority of all the arbitrators.

ARTICLE XII

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.

BOOK 168 PAGE 531

ARTICLE XIII

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 interior window signs) shall be displayed on any Lot without the prior written approval of Declarant. Further, no signs of any nature, kind or description shall be erected, placed or maintained on any Lot which identify, advertise or in any way describe the existence or conduct of a home occupation.

Section 2. Home Occupations. No home occupation shall be conducted or maintained on any Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of any such Lot and which is generally or regularly conducted in another location away from such Lot. Nothing contained herein shall be construed or interpreted to affect the activities of Declarant in the sale of Lots or Dwelling Units as a part of the development of this subdivision.

ARTICLE XIV

Use Restrictions and 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, and they are reasonable size and number. The decision of the Board of Directors with regard to the reasonableness of the size, type, or number of pets shall be final. Any mess created by such 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 maintained as a dumping ground for rubbish, trash or garbage Waste matter or materials shall be kept only in sanitary con tainers and all incinerators or other equipment for the stor or disposal of such material shall be kept in a clean and sa tary condition.

Section 3. Offensive Activities. No noxious or off sive activity shall be carried on upon any Lot nor shall anyt done thereon which may be or may become an annoyance or nuisar to the neighborhood.

Section 4: Boat Ramp or Boathouse. No Owner shall construct or install a boat ramp or boat house on the lake, shoreline, or Properties.

Section 5: Residential Use. Said property is hereby restricted to dwellings for residential use. All buildings or structures erected upon said Property shall be of new construction, and no buildings or structures shall be moved from other locations onto said Property, and no subsequent buildings or structures other than dwelling units, being single family dwelling units joined together by a common exterior roof and foundation, where appropriate, shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding, shall be used on any portion of said Property at any time as a residence, either temporarily or permanently.

Section 6: Separate Estate. Each Lot shall be conveyed as a separately designated freehold estate, subject to the terms, conditions, and provisions hereof, and of the plat.

Section 7: Signs. No advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on the Properties, nor shall said Properties be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident thereof. No business activities of any kind whatsoever shall be conducted in any buidling, or in any portion of said Property; provided, however, the foregoing covenants shall not apply to the

business activities, signs, and billboards, or the construction and maintenance of buildings, if any, of Declarant, its successors, and assigns, in furtherance of its powers and purposes as herein set forth.

The Declarant or the Association may deem it desirable to install a permanent entry sign, private street signs or directional signs, in which event same shall become part of the Common Area and shall be properly maintained by the Association.

Section 8: Outside Equipment. No clotheslines, equipment, garbage cans, service yards, or storage piles, shall be regularly exposed to view upon the Properties. All rubbish, trash, or garbage, shall be regularly removed from the premises, and shall not be allowed to accumulate thereon.

Section 9: Landscape. Except in the individual patio areas appurtenant to a Lot, no planting, or gardening shall be done, and no fences, hedges, or walls shall be erected or maintained upon said Properties, except such as are installed in accordance with the initial construction of the buildings located thereon, or as approved by the Association's Board of Directors, or their designated representatives. Except for the rights as granted by this Declaration, the Owners of Lots are hereby prohibited and restricted from using any of said Properties outside the exterior building lines, patio, and garage areas, or any other part of the Common Areas, except as may be expressly allowed by the Association's Board of Directors. It is expressly acknowledged and agreed by all parties concerned, that this paragraph is for the mutual benefit of all Owners of Lots and is necessary for the protection of said Owners.

Section 10: Exterior Maintenance. Maintenance, upkeep and repairs, of any patio, screens and screen doors, exterior doors and window fixtures, and other hardward, shall be the sole responsibility of the individual Owner of the Lot appurtenant thereto, and not in any manner the responsibility of the Board of Directors of the Association. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the Common Area, and all exteriors and roofs of the dwelling units, including but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors, or by its duly delegated representative.

BOOK 168 PAGE 533

No Owner shall cause or permit anything to be placed on the outside walls of any residence, and no awning, canopy, shutter, radio or television antenna shall be affixed to or placed upon the exterior walls or roof, or any part thereof, without the prior written consent of the Association. No Owner shall change an exterior residential door without first obtaining the prior written consent of the Association as to the style, design and quality of such replacement door.

BOOK 108 PAGE 034

Section 11: Interior Maintenance. All fixtures and equipment installed within a dwelling unit, commencing at a point where the utility lines, pipes, wires, conduits, or systems enter the exterior walls of a dwelling unit, shall be maintained and kept in repair by the Owner thereof. An Owner shall do no act, nor any work, that will impair the structural soundness or integrity of another dwelling unit, or impair any easement of heridament, nor do any act, nor allow any condition to exist which will adversely affect the other dwelling units or their Owners.

Section 12: Antennae. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antennae of any sort shall be placed, allowed or maintained upon any portion of the imporvements to be located upon the Lots or Common Area, nor upon any structure situated upon the Lots or Common Area other than an aerial for a master antenna system should any such master system, or systems, be utilized and required any such exterior antenna.

Section 13: Trucks. No trucks of any kind that require a "truck license" shall be parked, or permitted to remain on any street, driveway or parking area, or on any part of the Common Area, unless such truck shall be enclosed by a garage and not exposed to view. Trucks making deliveries or present in connection with service, repair or construction are excepted.

Section 14: Unlicensed Vehicles. No unlicensed vehicles shall be permitted on any part of the Common Area more than twenty-four (24) hours. (An exception would be when the vehicle is stored in an Owner's garage and not exposed to view).

Section 15: Auto Repair. All automobile repairs for gain are prohibited, and if performed by Owner for a member of that household, said repairs shall be performed in the garage and not be exposed to view.

Section 16: Boat Storage. No boat, boat trailer, travel trailer, camper or recreational equipment of any description shall be stored on the Common Area without the consent of the Board of Directors.

Section 17: Window Air Conditioners. No window air conditioner protruding from the exterior of the building shall be allowed as an exterior improvement.

Section 18: 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.

ARTICLE XV

Mortgagee's Rights

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

BOOK 108 PAGE 530

Section 3. Rights of Mortgagee. Unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each first mortgage owned), and seventy-five percent (75%) of the Class A Members have given their prior written approval, the Association shall not:

(a) by an act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Properties or Common Area or improvements located thereon which are owned directly or indirectly by the Association for the benefit of the Dwellings. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Properties by the Association shall not be deemed a transfer within the meaning of this clause.

(b) change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot Owner.

(c) by act or omission change, waive or abandon any scheme of regulation or enforcement thereof pertaining to the architectural design or exterior appearance of the Dwellings, the exterior maintenance of the Dwellings, the maintenance of party walls or common fences, driveways or the upkeep of lawns and plantings in the Properties.

(d) fail to maintain fire and extended coverage insurance on insurable common property on current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement costs).

(e) use hazard insurance proceeds for losses to any Common Area for other than the repair, replacement or reconstruction of such Common Area.

Section 4. Right to Examine Books and Records. Mortgagees, their successors or assigns, shall have the right to examine the books and records of the Association.

Section 5. Taxes and Insurance. First mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Area and first mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. The Association shall duly execute an agreement to such effect in favor of all first mortgagees and shall deliver an original or certified copy of such agreement to all first mortgagees.

BOOK 168 PAGE 537

Section 6. Insurance Proceeds and Condemnation Awards. No provision of this Declaration, or any other documents or instrument affecting the title to the Property, Common Area, any Lot or the organization or operation of the Association, shall give a Lot Owner or any other party, priority over any rights of first mortgagees of Lots within the Properties pursuant to their mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation awards for losses to or taking of Common Areas.

ARTICLE XVI

General Provisions

Section 1. Right of Enforcement: In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the persons in ownership from time to time of the Lots and all parties claiming under them, shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies at law or in equity available under applicable Indiana Law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorney fees, costs and expenses

incurred as a result thereof. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of any right do so thereafter.

Section 2. Amendment. This Declaration may be amended or changed at any time within ten (10) years following the date of recordation by an instrument recorded in the Office of the Recorder of Hamilton County, Indiana, signed by at least a majority of the then Owners and thereafter by a similar recorded instrument signed by at least seventy-five percent (75%) of such Owners; provided, however, none of the rights of Declarant reserved hereunder may be amended or changed without Declarant's prior written approval. This Declaration shall run with the land and shall be binding upon all parties claiming under them for a period of twenty (20) years from the date of recordation in the Office of the Recorder of Hamilton County, Indiana, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten-year period, it is amended or changed in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions or restrictions of this Declaration by judgment or decree shall in no way affect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 3: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 4: Annexation of Additional Property.

(a) Additional property may be brought within the jurisdiction of the Association, or made subject to the provisions of this Declaration in the manner provided herein.

Additional land adjacent to the Properties, and owned by the Declarant, may be annexed by the Declarant, without the consent of Owners or Members within five (5) years of the date of this instrument, and said annexation shall be effective

BOOK 400 PAGE

upon the Declarant recording an instrument referring to this Declaration, describing the property to be annexed, and submitting said property to the provisions of this Declaration.

Any such annexation shall consist of improvements, which will be of comparable quality in construction, as the existing residential units, and that the density of the amended units will be no greater than the density of the existing units, and provided further, that any such annexation will not adversely affect the use of any recreational facilities which may serve the existing residential units.

(b) The Developer plans to phase the development of a Section of the platted Real Estate and to add-on subsequent Sections and phases to the Section I. As the Developer determines to continue the expansion of the project to include further property lying to the south of Section I, it may acquire another Section and amend the Plat. Upon the add-on of another Section, the Owner's interest and voting control in Beachplace Homeowner's Association (which holds the fee to the common areas) shall be reduced apportionately to the increased number of platted units.

(c) No change in the interest in the common elements may be affected pursuant to phasing or add-on plan more than seven (7) years after this Declaration becomes effective.

BOOK 168 PAGE 539

Section 5. Prior 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, and any initial construction or development-lender, said approvals not to be unreasonably withheld: annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, Beachplace Associates, Inc., by Roger D. Smith, President, has caused this Declaration to be executed this 11 day of December, 1981.

BEACHPLACE ASSOCIATES, INC.

By: Roger D. Smith
Roger D. Smith, President

Attest:
Don G. Hayes, Jr.

STATE OF INDIANA)
SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said county and State, personally appeared Roger D. Smith, President of Beachplace Associates, Inc., an Indiana corporation, after having been first duly sworn, acknowledged the execution of the foregoing Declaration for and on behalf of said corporation.

Dated this 11th day of December, 1981.

Written Mark E. Bell
Printed Mark E. Bell
Notary Public
Resident of Hamilton County

My Commission Expires:
Sept 3, 1983

This instrument prepared by:

Mark E. Bell, Attorney at Law
220 Merchants Bank Building
Indianapolis, Indiana 46204
(317) 634-0220

EXHIBIT A

A part of the East Half of Section 11, Township 19 North, Range 4 East in Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Southeast Corner of the East Half of said Section 11, thence North 01 degree 01 minute 27 seconds East (Assumed Bearing) on and along the East line of said East Half a distance of 757.42 feet to the Point of Beginning; thence North 81 degrees 49 minutes 03 seconds West a distance of 160.03 feet; thence North 08 degrees 10 minutes 57 seconds East a distance of 50.00 feet; thence North 81 degrees 49 minutes 03 seconds West a distance of 98.00 feet more or less to a point on the shore line of Morse Reservoir, as said shore line would have been established December 30, 1960, plus accretion and minus erosion (with the water level thereof at an elevation of 810.0 feet above mean sea level); thence Northerly and Easterly along the meanderings of said shore line a distance of 840.0 feet more or less to a point on the South line of Lot No. 10 in Port Harbour, Section One, an addition to the town of Cicero, Indiana as recorded in the Office of the Recorder of Hamilton County, Indiana, in Instrument No. 8943; thence South 49 degrees 44 minutes 00 seconds East along the South line of said Lot No. 10 a distance of 70.00 feet more or less; thence South 88 degrees 58 minutes 33 seconds East along the South line of said Lot No. 10 a distance of 47.45 feet to the aforementioned East line of said East Half; thence South 01 degree 01 minute 27 seconds West on and along said East line a distance of 517.65 feet to the Point of Beginning. Containing 3.875 acres more or less, (hereinafter referred to as "Real Estate").

This Instrument Recorded Feb. 26 1982
MARY L. CLARK, RECORDER, HAMILTON COUNTY, IND.

83 756

AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
BEACHPLACE

BOOK 173 PAGE 216

The Declaration of Covenants, Conditions and Restrictions of Beachplace, dated December 11, 1981, and recorded in the Office of the Hamilton County Recorder on February 26, 1982, in Miscellaneous Record 168, pages 503-541, are hereby amended as follows:

(1) ARTICLE II - Section 4, Page 2
"Common Area" shall be changed to:
"Common Area" and/or "Common Elements"

(2) ARTICLE V - Section 1, Page 5
On page 5, last line of second paragraph:
The word "Declaration" is deleted and the word "Declarant" is substituted in lieu of.

RECEIVED FOR RECORD
JAN 24 10 54 AM '83
MARY L. CLARK
RECORDER
HAMILTON CO., IND.

ATTEST:

Mark E. Bell, Secretary

BEACHPLACE ASSOCIATES, INC.

By Michael F. Corski, President

STATE OF INDIANA)
SS:
COUNTY OF MARION)

This Instrument Recorded Jan. 24 1983
MARY L. CLARK, RECORDER, HAMILTON COUNTY, IND.

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 30th day of September, 198..

SEAL

Written Altha J. Dougherty
Printed ALTHA J. DOUGHERTY
Notary Public
Resident of Marion County

My Commission Expires:
May 3, 1984

This document prepared by Mark E. Bell, Attorney at Law

MISC. 173

216

8310201

AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
BEACHPLACE

BOOK 175 PAGE 445

The Declaration of Covenants, Conditions and Restrictions of Beachplace, dated December 11, 1981, and recorded in the office of the Hamilton County Recorder on February 26, 1982, in Miscellaneous Record 168, pages 503-541, and amended on the 24th day of January, 1983; and recorded in the office of the Hamilton County Recorder as Instrument 83-756 in Miscellaneous Record 173, page 216, are hereby further amended as follows:

(1) ARTICLE IX - Section 2, page 17, shall be amended to read as follows:
Section 2. Maintenance of Driveway and Parking Easements and Private Street. The Association shall be responsible for the maintenance, repair, and repaving of all Driveway and Parking Easements and the Private Street.

(2) ARTICLE II, Section 7, page 2 is struck in its entirety and in lieu thereof, insert the following:
"Private Street" shall mean and refer to the roadways for ingress and egress to the Properties for each Lot, including the entranceway to the property, which shall be part of the Common Area and shall be privately owned and maintained by the Association.

ATTEST:

Mark E. Bell, Secretary

BEACHPLACE ASSOCIATES, INC.

By Michael F. Gorski, President

STATE OF INDIANA)
SS:
COUNTY OF MARION)

This Instrument Recorded Aug. 24 1983
MARY L. CLARK, RECORDER, HAMILTON COUNTY, IND.

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 25th day of July, 1983.

Written Rita A. Wilkins
Printed RITA A. WILKINS
Notary Public

My Commission Expires:
4-20-84

Resident of MARION County

This document prepared by Mark E. Bell, Attorney at Law

MISC. 175

445

AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
BEACHPLACE

8412385

BOOK 179 PAGE 942

The Declaration of Covenants, Conditions and Restrictions of Beachplace, dated December 11, 1981, and recorded in the office of the Hamilton County Recorder on February 26, 1982, in Miscellaneous Record 168, pages 503-541, and amended by instrument recorded in the office of the Hamilton County Recorder on January 24, 1983 (Instrument 83756) in Miscellaneous Record 173, page 216; and amended by instrument recorded in the office of the Hamilton County Recorder on August 24, 1983 in Miscellaneous Record 175, page 445, is hereby further amended as follows:

(1) Article VIII, Section 6, pages 11 and 12 shall be amended by striking said Section in its entirety and inserting in lieu thereof the following:

Section 6. Assessment Rates.

For purposes of assessments, Lots shall be designated as Classification I or II. Classification I shall include Lots situated with a Building adjacent to the water or within 40 feet of the water (the distance does not relate to the Dwelling Unit, but merely to the Building, and in Section I, this refers to Buildings 3, 4, 5, 6 and 7). Classification II shall be established for all other Lots. Both monthly and special assessments for capital improvements and operating expenses must be fixed at a uniform rate for all Lots within Classification I. Likewise, a uniform rate shall be fixed for all Lots within Classification II. The rates for Classification I shall reflect the presumed greater use of the Common Area and may be set Ten Dollars ($10.00) more per month than the rates assessed for Classification II. All such rates pertain only to Lots not owned by the Declarant who may be assessed for the costs of maintaining the operation of the Association above the income derived from the assessments of all other Lot Owners as the expenses come due; or an amount not to exceed a rate equal to twenty-five percent (25%) of the regular and special assessments on all other Lots. Assessments may be collected on a monthly basis.

(2) Article V, Section 1, page 4, line 1, shall be amended to strike the word "blanket" and change "a" to "an".

This Instrument Recorded Sept. 11 1984
Mary L. Clark, Recorder, Hamilton County, Ind.

RECEIVED FOR RECORD
SEP 11 10 25 AM '84
MARY L. CLARK
RECORDER
HAMILTON CO. IND.

MISC. 179 942

(3) Article V, Section 1, page 4, line 2, shall be amended to strike the word "all" and insert in lieu thereof the words: "such area as required".

(4) Article V, Section 8, page 7, shall be amended by striking said Section in its entirety and inserting in lieu thereof the following:

> Section 8. Recorded Restrictions of the Indianapolis Water Company.
>
> The Indianapolis Water Company has recorded a 20-foot restrictive easement along the shoreline of Morse Reservoir. Said Company may maintain and enter its easement, and no permanent improvements may be placed on said easement without the approval of the Indianapolis Water Company. The Declarant does not own or control the Reservoir water or its use.

(5) Article X, Section 3, page 19, is amended to delete the following language within said Section:

> "Each Owner shall prepay to the Association at the time his Lot is conveyed to such Owner an amount equal to thirteen (13) monthly insurance assessments and shall maintain such prepayment account at all times. The Association shall hold such funds in escrow for the payment for the purchase of insurance as herein provided."

ATTEST:

Mark E. Bell, Secretary

BEACHPLACE ASSOCIATES, INC.

By Michael F. Gorski, President

STATE OF INDIANA)
SS:
COUNTY OF MARION)

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 31st day of August, 1984.

Written Altha J. Dougherty
Printed Altha J. Dougherty
Notary Public
Resident of Marion County

My Commission Expires:
May 3, 1988

This Instrument Recorded Sept. 11 1984
Mary L. Clark, Recorder, Hamilton County, Ind.

This document prepared by Mark E. Bell, Attorney at Law

MISC 187 266

AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF BEACHPLACE

This Instrument Filed 5-19- 1986
Mary L. Clark, Recorder, Hamilton County, Ind.

The Declaration of Covenants, Conditions and Restrictions of Beachplace by Beachplace Associates, Inc., an Indiana corporation, dated December 11, 1981 and recorded February 26, 1982 in Miscellaneous Record 168, pages 503-541, and amended by instrument dated September 30, 1982, recorded January 24, 1983 in Miscellaneous Record 173, page 216, and amended by Amendment recorded August 24, 1983 in Miscellaneous Record 175, page 445, and amended by Amendment recorded September 11, 1984 in Miscellaneous Record 179, page 942, is by approval of the Declarant, Beachplace Development, Inc., the majority of Lot Owners of Beachplace Section One and the Owners of Section Two of Beachplace and with the approval of H.U.D.; further amended as follows:

RECEIVED FOR RECORD
MAY 19 11 33 AM '86
MARY L. CLARK
RECORDER HAMILTON CO. IN

1. The preamble to said Declaration is amended by adding the following:

> WHEREAS, Section Two of Beachplace is hereby acknowledged as annexed into the subdivision of Beachplace under this Declaration and integrated as part of this Beachplace Homeowners Association so that the future Lot Owners in Section Two or subsequent Sections adjacent thereto may fully participate in its government and be bound under the Declaration's covenants, conditions and restrictions, yet acknowledge that the annexed Section Two may elect to a separate budget for services, or any distinctives pertaining to Section Two or subsequently annexed Sections, and that Section Two and subsequent Sections, as designated Beachplace II, may have a different assessment to fund its budget. If Section One Owners choose not to increase assessments or allow itself to be placed in a financial position in which special assessments are necessary to fund its budget matters, such special assessments shall not be placed against Beachplace II or the Declarant.
>
> Further, the Developer of Section Two may have distinctions with different assessments, rules or policies and that the developer for Section Two will control that property in a different manner with different rights and obligations than as to Section One of Beachplace.
>
> Any amendments that the Declarant or Developer desires to make solely as to Section Two or subsequent Sections or properties annexed into Beachplace or Beachplace II, said amendments to any degree contrary or conflicting with the language in this Declaration and its application to the subdivision shall be considered as superseding and superior and shall be solely binding upon the Owners in Section Two or subsequent Sections but shall not be binding upon those Owners in Section One of Beachplace.

2. Article II, Definitions shall be amended by striking Article II as presently written and inserting and numbering the Sections to read as follows:

Section 1. "Subdivision" shall mean the addition to Cicero, Indiana known and platted as Beachplace Section Two Lake Homes Subdivision.

Section 2. "Association" shall mean and refer to Beachplace II Homeowners Association, an Indiana not-for-profit corporation and its successors and assigns.

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

Section 4. "Properties" shall mean and refer to Section One of Beachplace and the real property described in Exhibits A, B and C, and such additions thereto as may hereafter be brought within the jurisdiction of the Association for the common use and enjoyment of the Owners and shall include the limited common areas, exclusive driveway easements, exclusive parking easements, drainage, and utility easements as designated on a recorded plat.

Section 5. "Declaration" shall mean this instrument and all of the covenants, conditions and restrictions and all other terms and provisions herein set forth in this entire document, as the same may from time to time be amended or supplemented in accordance with the terms hereof.

Section 6. "Common Area" shall mean and refer to the easements of access, ingress and egress over and across the property or interests herein, real or personal, acquired by the Association which are intended and devoted to the common use and enjoyment of the Members; provided, however, that Common Area does not and shall not include any "common area" or "common property" located in or on the Properties unless the same is expressly conveyed or granted to the Association by the Owner thereof.

Section 7. "Declarant" or "Developer" shall mean and refer to Beachplace Development, Inc., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Developer hereunder, including, but not limited to, any mortgagee acquiring title to any portion of the Beachplace Development pursuant to the exercise of rights under or foreclosure (or deed in lieu of foreclosure) of a mortgage executed by Developer; provided, however, that any such mortgagee acquiring title by virtue of foreclosure against (or deed in lieu of foreclosure from) the Developer shall not be deemed to have assumed any prior obligations or liabilities of the Developer hereunder.

Section 8. "Plat" shall mean and refer to the subdivision plat of the Properties recorded in the office of the Recorder of Hamilton County, Indiana, as the same may be hereafter amended or supplemented.

Section 9. "Private Street" shall mean and refer to the roadways for ingress and egress to the Properties for each Lot, which shall be part of the

Common Area and shall be privately owned and maintained by the Association.

Section 10. "Lot" shall mean and refer to any parcel of land designated as such upon the Plat. With respect to any Dwelling Unit that may be constructed on a part of more than one of such parcels, "Lot" shall mean and refer to the real estate conveyed in connection with such Dwelling Unit.

Section 11. "Building" shall mean and refer to the attached total structure containing single-family dwelling unit(s) that are be constructed together with common walls.

Section 12. "Dwelling Unit" shall refer to each one of the single family portions of any Building.

Section 13. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 14. "Subplat" shall mean a plat which includes a Building and the Common Area, Street with designated easements and restrictions to be recorded for each Building in the Subdivision.

3. Article VI, Section 2 shall be stricken in its entirety and insert in lieu thereof as follows:

Section 5. Classes of Membership. The Association shall have two (2) classes of voting membership:

Class A: Class A members shall be all Owners, including the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In matters concerning the entire subdivision development or only Section One of Beachplace, the Declarant may vote only as a Class A Member.

Class B: Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned; provided, however, the Declarant may exercise the voting rights granted herein only in matters concerning Section Two of Beachplace or properties that may be later annexed into Beachplace. The Class B membership shall remain in effect so long as the Declarant is developing Beachplace and owns at least one Subplat in the Properties, or in the event such does not occur prior to the first day of January, 1995, said Class B Membership shall be automatically converted to a Class A Membership.

4. Article VII, Section 8 shall be stricken as presently written and insert in lieu thereof the following:

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association. After January 1, 1986, if any assessment (or monthly installment of such assessment, if applicable) is not paid by the 15th day of the month (pursuant to Section 7 hereof), then the unpaid assessment shall become delinquent and the Lot Owner shall pay a late fee of $5.00 which shall be paid along with the monthly assessment before the Lot Owner is considered current. The delinquent assessment and any costs of collection for fees as provided herein shall

MIC 107 796

be a continuing lien on such Lot, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, and the Board determines it proper, the assessment shall bear interest from the date of delinquency at the rate of fourteen percent (14%) 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 as a reasonable attorney fee to be fixed by the court, together with the costs of the action.

No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot; however, any debt or interest incurred due to delinquency or failure to pay shall be waived by the Association if the Owner's assessments are made current on or before December 31, 1985.

5. Article VIII, Section 1 shall add the following sentence to the end of said Section:

Declarant may alter the contours or change landscaping in Section One of Beachplace to enhance the Properties or promote more efficient maintenance of the Common Area.

6. Article XVI, General Provisions shall be amended to add an additional Section 5, which shall read as follows:

Section 5. Disannexation. Until such time as the Owner of the real estate in Section Two actually transfers title to said property to the Association, the Owner shall have the right to disannex Section Two from this Association. Notice of this shall be recorded and Section Two would be free and clear of any encumbrances of the Declaration of Beachplace, as amended, and free to incorporate a separate and autonomous Association although all easements and right of ways granted to Section Two or subsequent Sections shall remain in full force and effect. After Owner transfers title of the property, in the event all the Lot Owners within Section Two of Beachplace II should unanimously consent to disannexation from the Association at any time, notice of this disannexation shall be recorded, and upon recordation, Section Two (or any real estate or Properties under the designation of Beachplace II which may include additional Sections) shall be free and clear of the encumbrance of this Declaration of Beachplace and any amendements thereto. This annexation shall not in any manner affect the continuance of any easement rights granted in the Declaration or any easement rights granted by Beachplace Associates, Inc., or the Declarant, they shall not be extinguished and shall remain in full force and effect, any language to the contrary notwithstanding.

APPROVED AND SEALED ON THIS 24th DAY OF April, 1986.

DECLARANT
BEACHPLACE DEVELOPMENT, INC.

ATTEST:

By: Mark E. Bell
Mark E. Bell

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Subscribed and sworn to before me, a Notary Public, in and for said County and State, personally appeared Mark E. Bell and Robert W. Halcomb, the President and Secretary, respectively of BEACHPLACE DEVELOPMENT, INC., who being duly sworn upon their oaths executed the foregoing as their voluntary act and deed.

Witness my hand and Notarial Seal this 24 day of April, 1986.

Notary Public

My Commission Expires:
January 15, 1988

Printed: Steven A. Hostetler
Resident of Marion County

Approval of the Lot Owners pursuant to a vote of said members of the Homeowners Association at a duly called meeting on the 20th day of April, 1986, and the List of Members shown on the attached Exhibit "A" represents a majority of the Lot Owners hereby granting approval to the Amendments contained herein.

APPROVED AND SEALED THIS 16th DAY OF May, 1986.

THE SHOREWOOD CORPORATION, as title holders of Beachplace, Section Two

ATTEST:

By: John F. Cuff

5-19-

STATE OF INDIANA)
) SS:
COUNTY OF ~~MARION~~ HAMILTON)

Subscribed and sworn to before me, a Notary Public, in and for said County and State, personally appeared JOHN F. CULP and NANCY MARTINEE, the VICE PRESIDENT and ASSISTANT SECRETARY respectively of THE SHOREWOOD CORPORATION, who being duly sworn upon their oaths executed the foregoing as their voluntary act and deed.

Witness my hand and Notarial Seal this 6th day of May, 1985.

, Notary Public

My Commission Expires: 10-14-88

Printed: MARILYN L. MOYER

Resident of ~~Marion~~ Boone County.

APPROVED THIS 24th DAY OF April, 1986.

MARK E. BELL, as Contract Purchaser of Beachplace, Section Two

Robert Halcomb, as Contract Purchaser of Beachplace, Section Two

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Subscribed and sworn to before me, a Notary Public, in and for said County and State, personally appeared Mark E. Bell and Robert Halcomb, who being duly sworn upon their oaths executed the foregoing as their voluntary act and deed.

Witness my hand and Notarial Seal this 24th day of April, 1986.

, Notary Public

My Commission Expires: January 15, 1988

Printed: STEVEN A. HOSTETLER

Resident of Marion County

The Amendments contained herein and those that may have been adopted previously without a recorded approval from Housing & Urban Development are all hereby ratified and approved on this 7th day of May, 1986, as required by the Declaration of Covenants, Conditions and Restrictions.

HOUSING & URBAN DEVELOPMENT

By: Keith W. Lerch

duly authorized representative of H.U.D.

This instrument prepared by Mark E. Bell, Attorney at Law.

The Amendments contained herein and those Amendments that have been approved by the Homeowner's Association and recorded prior to this time being referenced in the preamble of this document and which amendments have not been specifically approved in writing by the Housing & Urban Development are all hereby approved and ratified by the Housing & Urban Development agency as provided in the Declaration of Covenants, Conditions and Restrictions.

Said approval granted this 7th day of May, 1986.

DEPARTMENT OF
HOUSING & URBAN DEVELOPMENT

Keith W. Lerch
KEITH W. LERCH
Authorized Representative

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICITONS WAS PREPARED BY: Mark E. Bell, Attorney at Law

[illegible] 5-17-1986
[illegible] County, [illegible]

Duly Entered for Taxation
Subject to Final Acceptance for Transfer, Hamilton County, Ind.

AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF
BEACHPLACE
(which shall be known as "Beachplace II Declaration")

The Declaration of Covenants, Conditions and Restrictions of Beachplace by Beachplace Associates, Inc., an Indiana corporation, recorded February 26, 1982 in Miscellaneous Record 168, pages 503-541, and amended by instrument dated September 30, 1982, recorded January 24, 1983 in Miscellaneous Record 173, page 216, and amended by Amendment recorded August 24, 1983, in Miscellaneous Record 175, page 445, and amended by Amendment, recorded September 11, 1984 in Miscellaneous Record 179, page 942, and amended by Amendment recorded 5-19-86 in Miscellaneous Record 187, page 266-274 is hereby further amended as follows:

MAY 19 11 33 AM
MARY L. CLARK
RECORDER HAMILTON CO.
RECEIVED
FOR RECORD

1. The preamble to said Declaration is amended by adding the following:

WHEREAS, there exists the Beachplace Homeowners Association, Inc., incorporated on November 19, 1981, which operates under the Declaration of Covenants, Conditions and Restrictions of Beachplace filed with the Recorder of Hamilton County, Indiana, as amended; and on October 10, 1985, the Declarant filed under Instrument No. 85-15406, an annexation of Section Two of Beachplace Subdivision granting the extension of the Declaration for Section One to govern Section Two. The annexation acknowledged that the Declarant under the Declaration was changed from Beachplace Associates, Inc. to Beachplace Development, Inc.

There was a subsequent Amendment to this Declaration which acknowledged that Beachplace Development was indeed the Declarant and Developer for purposes of the Declaration and established that said successor Declarant as Developer of Section Two of Beachplace would act as a Class B Member only as to Section Two or other subsequent Sections; and

WHEREAS, to clarify such matters that apply only to Section Two or that were adopted by the Declarant as Declarations for Section Two or subsequent Sections, this Declaration for Beachplace II is created to preserve the amenities of Beachplace II that may be distinctive and in addition to those pertaining to Section One and the original underlying Declaration of Beachplace.

NOW, THEREFORE, Declarant, Bell and Halcomb and The Shorewood Corporation along with the majority of the Lot Owners of Beachplace meeting all requirements of the Declaration.

MISC. 187
275

2. Article II, Definitions shall be amended by striking Article II as presently written and inserting and numbering the Sections to read as follows:

Section 1. "Declaration" or "Original Declaration" shall mean the instrument recorded December 11, 1981 and as amended, acknowledging that this document though separate and with an independent designation of Beachplace II is in fact an amendment to the Original Declaration.

Section 2. "Beachplace II Declaration" shall mean this instrument that contains those covenants, conditions and restrictions that particularly pertain to Section Two of Beachplace and may apply to subsequent Properties or Sections if so extended.

Section 3. "Subdivision" shall mean the addition to Cicero, Indiana known and platted as Beachplace Section Two Lake Homes Subdivision.

Section 4. "Association" shall mean and refer to Beachplace II Homeowners Association, an Indiana not-for-profit corporation and its successors and assigns.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple contract to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Properties" shall mean and refer to Section One of Beachplace and the real property described in Exhibits A, B and C, and such additions thereto as may hereafter be brought within the jurisdiction of the Association for the common use and enjoyment of the Owners and shall include the limited common areas, exclusive driveway easements, exclusive parking easements, drainage, and utility easements as designated on a recorded plat.

Section 7. "Declaration" shall mean this instrument and all of the covenants, conditions and restrictions and all other terms and provisions herein set forth in this entire document, as the same may from time to time be amended or supplemented in accordance with the terms hereof.

Section 8. "Common Area" shall mean and refer to the easements of access, ingress and egress over and across the property or interests herein, real or personal, acquired by the Association which are intended and devoted to the common use and enjoyment of the Members; provided, however, that Common Area does not and shall not include any "common area" or "common property" located in or on the Properties unless the same is expressly conveyed or granted to the Association by the Owner thereof.

Section 9. "Limited Common Area". Although this term is utilized in the Original Declaration and in the Plat for Section One, the definition contained herein expands the term and is distinctive to Section Two and shall mean that portion of the Common Area which extends from the rear boundary line of any Lot (located in Beachplace appurtenant to the Morse Reservoir) to e shoreline of the Reservoir, the use of which Limi Common Area shall be limited to the Owner of the which it adjoins, subject, however, to the Rules Regulations of the Association adopted by its Board of

Directors, which may provide for a lake shoreline walkway that is a common walk available to the Owners of all (or substantially all) Lots in Beachplace Lake Homes Subdivision, their families, guests and invitees, so long as said parties do not unreasonably infringe upon the use and enjoyment of such Limited Common Area by the Owner of the Lot to which the same is appurtenant.

Section 10. "Declarant" or "Developer" shall mean and refer to Beachplace Development, Inc., an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Developer hereunder, including, but not limited to, any mortgage acquiring title to any portion of the Beachplace Development pursuant to the exercise of rights under or foreclosure (or deed in lieu of foreclosure) of a mortgage executed by Developer; provided, however, that any such mortgagee acquiring title by virtue of foreclosure against (or deed in lieu of foreclosure from) the Developer shall not be deemed to have assumed any prior obligations or liabilities of the Developer hereunder.

Section 11. "Plat" shall mean and refer to the subdivision plat of the Properties recorded in the office of the Recorder of Hamilton County, Indiana, as the same may be hereafter amended or supplemented.

Section 12. "Private Street" shall mean and refer to the roadways for ingress and egress to the Properties for each Lot, which shall be part of the Common Area and shall be privately owned and maintained by the Association.

Section 13. "Lot" shall mean and refer to any parcel of land designated as such upon the Plat. With respect to any Dwelling Unit that may be constructed on a part of more than one of such parcels, "Lot" shall mean and refer to the real estate conveyed in connection with such Dwelling Unit.

Section 14. "Building" shall mean and refer to the attached total structure containing single-family dwelling unit(s) that are be constructed together with common walls.

Section 15. "Dwelling Unit" shall refer to each one of the single family portions of any Building.

Section 16. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 17. "Subplat" shall mean a plat which includes a Building and the Common Area, Street with designated easements and restrictions to be recorded for each Building in the Subdivision.

3. Article III, Sections 1 and 2 shall be stricken in their entirety and insert in lieu thereof as follows:

Section 1. Name. The subdivision of Section Two of Beachplace and any additional Sections subsequently annexed into the Beachplace Subdivision shall be known as "Beachplace II".

Section 2. Number of Phases and Lots. The subdivision annexed under the Declaration is designated by the plat filed thereof as Section Two. Section Two shall consist of Subplats containing Buildings as designated by a recorded plat. The northern most Subplat

adjacent to the shoreline and abutting Section One is designated Subplat 8. Each Building shall be referred to by the number of the Subplat as shown on the recorded plat. Each Lot shall be numbered beginning with 29 in Subplat 8 and progressing South as Subplats 9 through 12 as non-water Subplats and the remaining designated as "off-water" Subplats. The "off-water" Subplats shall be zero-lot line plats.

4. Article IV MEB shall be stricken in its entirety and inserted in lieu thereof the following:

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, subject to the limitation within the Driveway Easement and Limited Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

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

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area, Limited Common Area, Dwelling Unit or Driveway Easement and any facilities located thereon to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Parking Rights. In addition to the exclusive use of the respective attached garages upon the Lots, ownership of each Lot shall entitle an Owner, or Owners thereof, to the exclusive parking and use of the exclusive driveway easements as shown on the recorded Plat of the Properties. There is no designated parking space on the Common Area for the Owner; however, any Common Area parking for Beachplace II is exclusively for the Owners in Beachplace II.

Section 4. Declarant's Rights of Expansion. Declarant shall have, and hereby reserves, the right, at any time prior to the expiration of its Class "B" Membership in the Association as herein provided, to join additional Sections to the Development but in particular to Section One of Beachplace Lake Homes as platted to the Properties. The Section Two or any additional Section shall be deemed added to the Beachplace II Subdivision, and therefore and thereby becomes a part of the Properties and subject in all respects to this Declaration. Declarant and the Owners of the Lots in Section Two (if appropriate) must place of record in Hamilton County, Indiana an instrument executed by them so declaring the same to be a part of the Properties, which declaration may be made as part of the subdivision plat or re-plat.

5. Article IV shall add Section 5 which will read as follows:

Section 5. Common Area and Limited Common Area.

Sub-Section 1. Title to Common Area. The Declarant shall convey the Common Area within a Subplat to the Association, in fee simple absolute, prior to or at the time of the first conveyance of a Lot within said Subplat, such conveyance to be subject to taxes current, but unpaid, at the time of conveyance, and to restrictions, conditions, limitations and easements of record.

Sub-Section 2. Damage or Destruction of Common Area by Owner. In the event any Common Area is damaged or destroyed by an Owner or any of his Occupants, guests, tenants, licensees, agents or members of his family, such Owner shall be responsible for the repair of such damage and such Owner does hereby authorize the Association to repair such damaged area; the Association shall repair said damaged area in good and workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Association in the discretion of the Association. The amount necessary for such repairs shall become a special assessment upon the Lot of said Owner.

Sub-Section 3. Easement of Enjoyment Under Limited Common Areas for Owners of Lots in Subdivision. The Declarant and each Owner of a Lot within the Subdivision is hereby granted an exclusive (except as herein otherwise provided) easement for the use and enjoyment of the Limited Common Area adjoining the boundary of the Owners's Lot and extending to the shoreline of the Morse Reservoir. Said easement is and shall be subject to the Rules and Regulations of the Association from time to time in force which may provide for a common shoreline walkway for all (or substantially all) Owners of Lots in the Subdivision, their families, guests and invitees. While the Association may allow this common walk under certain regulations, no such privilege shall unreasonably infringe upon an Owner's use and enjoyment of his Limited Common Area. The Limited Common Area easement shall not exclude Declarant, its employees or representatives, from access to said Limited Common Area or easement area bordering the lake in connection with the conduct of its business or the development of the Subdivision.

Sub-Section 4. Extent of Members' Easements. Each Owner's easements of enjoyment in and to the Common Area and, where applicable, Limited Common Area, created hereby shall be subject to the following:

(a) the right of the Association to establish reasonable rules and regulations for the use of the Common Area and Limited Common Area.

(b) the right of the Association to suspend the right of an Owner other than the Declarant or the Developer to vote and/or to use the Common Area or Limited Common Area for any period during which any assessment against his Lot remains unpaid for more than thirty (30) days after notice, and the right of the Association to suspend the right of a member other than Declarant or Developer to use the recreational facilities (if any) included in the Common Area for a period not to exceed sixty (60) days for any other infraction of this Declaration or any Rules and Regulations promulgated by the Association.

6. Article VI. The aspect of Membership relations between Section One and Two was changed in the Original Declaration;

MISC 187 279

however, for clarification (acknowledging the duplication), this amended Section is shown herein:

Section 1. Membership. Every Owner of a Lot which is subject to assessments shall be a member of the Association. Membership shall be appurtenant to and maynot be separated from ownership of any Lot which is subject to assessment.

Section 2. Classes of Membership. The Association shall have two (2) classes of voting memberships:

Class A: Class A members shall be all Owners, including the Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In matters concerning the entire subdivision development or only Section One of Beachplace, the Declarant may vote only as a Class A Member.

Class B: Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned; provided, however, the Declarant may exercise the voting rights granted herein only in matters concerning Section Two of Beachplace or properties that may be later annexed into Beachplace. The Class B membership shall remain in effect so long as the Declarant is developing Beachplace and owns at least one Subplat in the Properties, or in the event such does not occur prior to the first day of January, 1995, said Class B Membership shall be automatically converted to a Class A Membership.

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

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

(a) access by all Owners to recreational and social facilities located outside of the Properties;

(b) security services upon the Properties;

(c) assessment billing services;

(d) professional management services; and

(e) snow removal and lawn care services.

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

Any agreement for the professional management of the Properties or Common Area, or any other contract providing for the services of the Declarant, sponsor or builder, may not exceed three (3) years and shall provide for termination by either party without cause and without payment of a termination fee on ninety (90) days, or less, written notice.

7. Article VII shall be stricken in its entirety and inserted in lieu thereof the following:

Section 1. Creation of the Lien and Personal Obligation of Assessment: Declarant, for each plotted Lot owned within the Properties, which is improved and substantially ready of occupancy, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) monthly assessments or charges which may be different for Beachplace II because Beachplace II shall have a separate budget; (2) special assessments for capital improvements and operating deficits; and (3) special assessments as provided in Article V, Article VI and Article IX; such assessments to be established and collected as hereinafter provided. Any Lot that becomes eligible for assessment but has not been conveyed by Declarant shall be assessed at a rate of twenty-five percent (25%) of the assessment designated for other similar Lots. The Declarant shall pay to the Homeowners' Association each month as all other Lot Owners; Provided, However, the expense for providing services to Section Two shall be paid by assessments from Section Two and any subsidy necessary to assure this shall e paid by the Declarant and not Lot Owners of Section One. Provided, further, the Declarant may pay, as payment toward its assessment the costs of operating and maintaining the Association's obligations to Section Two above the income derived from the assessments of all other Lot Owners in Section Two as said expenses become due rather than paying into the Association directly. In which event, Declarant shall submit the paid invoice showing the date and method of payment by Declarant or its contractor or agent.

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

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

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be One Hundred Dollars ($100.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than fifteen percent (15%) above the maximum assessment for the previous year without a vote of the membership unless such increase is pursuant to sub-section (b) hereafter.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment per Lot may also be increased each year without a vote of the membership, in conformance with the Consumer Price Index (CPI) published by the U.S. Department of Labor, specifically the Consumer Price Index for Urban Wage Earners and Clerical Workers, U.S. City Average, All Items, unadjusted for seasonal variation. The maximum assessment for any year shall be the amount determined by (a) taking the dollar amount specified above in the first sentence of this Section; (b) multiplying that amount by the published CPI number for the third month prior to the beginning of the subject year; and (c) dividing that resultant by the published CPI number for the third month prior to the month in which this Declaration was signed by the Declarant.

(c) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment amount specified above in the first sentence of this Section and used in the above CPI adjustment formula may be changed by a vote of the members, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purposes of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(d) The Board of Directors may fix the monthly assessment at an amount not in excess of the maximum. The Board shall establish a separate budget for Beachplace II and establish assessments accordingly. There shall not be a material or substantial subsidizing of one classification to another.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the monthly assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association may from time to time incur, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting necessary for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding

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meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Assessment Rates. For purposes of assessments, Lots shall be designated as Classification I or II. Classification I shall include Lots situated within a Building on the water (in Section Two, this refers to Buildings 8, 9, 10, 11 and 12). Classification II shall be established for all Lots considered "off-water". Both monthly and special assessments for capital improvements and operating expenses must be fixed at a uniform rate for all Lots within Classification I. Likewise, a uniform rate shall be fixed for all Lots within Classification II. The rates for Classification I shall reflect the presumed greater use of the Common Area and may be set at higher assessment per month than the rates assessed for Classification II. Assessments may be collected on a monthly basis, but may be paid in advance.

The assessment rates between Beachplace II Owners and the original Section One Owners shall not be such that Beachplace II Owners are subsidizing major repairs or maintenance programs for Section One. Special assessments for a repair program for Section One shall be paid only by Owners in Section One.

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 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 by the 15th day of the month (pursuant to Section 7 hereof), then the unpaid assessment shall become delinquent and the Lot Owner shall pay a late fee of $5.00 which shall e paid along with the monthly assessment before the Lot Owner is considered current. The delinquent assessment and any costs of collection or fees as provided herein shall be a continuing lien on such Lot, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them. If the assessment is not paid within thirty (30) days after the delinquency date, and the Board determines it proper, the assessment shall bear interest from the date of delinquency at the rate of fourteen percent (14%) 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 as 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. Collection by Mortgagee. Nothing in this Declaration shall be construed as prohibiting any first mortgagee from collecting the assessments due as a part of, or in addition to, any monthly payment due the mortgagee, provided, any mortgagee collecting assessments from any Owner, shall pay said assessments when they become due.

8. Article VIII, Section 1 shall be amended to read as follows:

Section 1. Control of Development. Declarant reserves the right to use any of the Lots as models and to sell, assign or conduct and permit its representatives to conduct business in connection with the construction and development of the project from any such Lots. In addition, the Declarant may permit a real estate firm that has the Properties listed for sale to have its office in a model. These reservations of right or privileges in Declarant include, but are not limited to, the right to maintain a model, erect signs, maintain an office, staff the office with employees (which may be employees of a list realtor for Beachplace), and to show Lots. 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 of the recording of an Amended Declaration. Further, Declarant reserves the right to withdraw or disannex Beachplace II from the Association and to create an autonomous Homeowner's Association for Beachplace II pursuant to the provisions Article XVI, Section 5.

9. Article XIV, Section 7 shall be amended to read as follows:

Section 7. Signs. No advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on the Properties, nor shall said Properties be used in any way or for any purposes which may endanger the health or unreasonably disturb the Owner of any Lot or any

resident thereof. No business activities of any kind whatsoever shall be conducted in any building, or in any portion of said Property; provided, however, the foregoing covenants shall not apply to the business activities, signs and billboards, or the construction and maintenance of buildings, if any, of Declarant, its agents, successors and assigns, in furtherance of its powers and purposes as herein set forth.

10. Article XVI, Section 4 shall be stricken in its entirety and insert in lieu thereof the following:

Section 4. Annexation of Additional Property or Disannexation.

(a) Additional property may be brought within the jurisdiction of the Association, or made subject to the provisions of this Declaration in the manner provided herein.

Additional land adjacent to the Properties, and owned by the Declarant, may be annexed by the Declarant, without the consent of Owners or Members within five (5) years of the date of the annexation of Section Two, and said annexation shall be effective upon the Declarant recording an instrument referring to this Declaration, describing the property to be annexed, and submitting said property to the provisions of this Declaration.

Any such annexation shall consist of improvements, which will be of comparable quality in construction, as the existing residential units, and that the density of the amended units will be no greater than the density of the existing units, and provided further, that any such annexation will not adversely affect the use of any recreational facilities which may serve the existing residential units.

(b) The Developer plans to phase the development of a section of the platted Real Estate and to add-on subsequent Sections and phases to the Section Two. As the Developer determines to continue the expansion of the project to include further property, it may acquire another Section or add Section I and amend the Plat. Upon the add-on of another Section, the Owner's interest and voting control in Beachplace II Homeowner's Association (which holds the fee to the Common Areas) shall be reduced apportionately to the increased number of platted dwelling units.

(c) No change in the interest in the common elements may be affected pursuant to phasing or add-on plan more than seven years after this Declaration becomes effective.

(d) Until such time as the Owner of the real estate in Section Two actually transfers title to said property to the Association, the Owner shall have the right to disannex Section Two from this Association. Notice of this shall be recorded and Section Two would be free and clear of any encumbrances of the Declaration of Beachplace, as amended, and free to incorporate a separate and autonomous Association although all easements and right of ways granted to Section Two or subsequent Sections shall remain in full force and effect. After Owner transfers title of the property, in the event all the Lot Owners within Section Two of Beachplace II should unanimously consent to disannexation from the Association at any time, notice of this disannexation shall be recorded, and upon recordation,

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Section Two (or any real estate or Properties under the designation of Beachplace II which may include additional Sections) shall be free and clear of the encumbrance of this Declaration of Beachplace and any amendements thereto. This annexation shall not in any manner affect the continuance of any easement rights granted in the Declaration or any easement rights granted by Beachplace Associates, Inc., or the Declarant, they shall not be extinguished and shall remain in full force and effect, any language to the contrary notwithstanding.

APPROVED AND SEALED ON THIS 24th DAY OF April, 1986.

ATTEST:

Robert W. Halcomb

DECLARANT
BEACHPLACE DEVELOPMENT, INC.

By: Mark E. Bell
Mark E. Bell

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

This Instrument Recorded _____ 1986
Mary L. Clark, Recorder, Hamilton County, Ind.

Subscribed and sworn to before me, a Notary Public, in and for said County and State, personally appeared Mark E. Bell and Robert W. Halcomb, the President and Secretary, respectively of BEACHPLACE DEVELOPMENT, INC., who being duly sworn upon their oaths executed the foregoing as their voluntary act and deed.

Witness my hand and Notarial Seal this 24th day of April, 1986.

Notary Public

My Commission Expires:
January 15, 1988

Printed: Steven A. Hermier
Resident of Marion County

Approval of the Lot Owners pursuant to a vote of said members of the Homeowners Association at a duly called meeting on the 20th day of April, 1986, and the List of Members shown on the attached Exhibit "A" represents a majority of the Lot Owners hereby granting approval to the Amendments contained herein.

APPROVED AND SEALED THIS 16th DAY OF May, 1986.

THE SHOREWOOD CORPORATION, as title holders of Beachplace, Section Two

ATTEST:

By: John F. Culp

STATE OF INDIANA)
COUNTY OF ~~MARION~~ HAMILTON) SS:
)

Subscribed and sworn to before me, a Notary Public, in and for said County and State, personally appeared JOHN F. CULP and NANCY MARTINKE, the VICE PRESIDENT and ASSISTANT SECRETARY, respectively of THE SHOREWOOD CORPORATION, who being duly sworn upon their oaths executed the foregoing as their voluntary act and deed.

Witness my hand and Notarial Seal this 6th day of May, 1985.

Marilyn L. Duyer, Notary Public

My Commission Expires: 10-14-88

Printed: MARILYN L. DUYER

Resident of ~~Marion~~ Boone County

APPROVED THIS 24th DAY OF April, 1986.

Mark E. Bell
MARK E. BELL, as Contract Purchaser of Beachplace, Section Two

Robert W. Halcomb
Robert Halcomb, as Contract Purchaser of Beachplace, Section Two

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Subscribed and sworn to before me, a Notary Public, in and for said County and State, personally appeared Mark E. Bell and Robert Halcomb, who being duly sworn upon their oaths executed the foregoing as their voluntary act and deed.

Witness my hand and Notarial Seal this 24 day of April, 1986.

Notary Public

My Commission Expires: JANUARY 15, 1988

Printed: STEVEN A. HOSTETLER

Resident of Marion County

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The Amendments contained herein and those Amendments that have been approved by the Homeowner's Association and recorded prior to this time being referenced in the preamble of this document and which amendments have not been specifically approved in writing by the Housing & Urban Development are all hereby approved and ratified by the Housing & Urban Development agency as provided in the Declaration of Covenants, Conditions and Restrictions.

Said approval granted this 7th day of May, 1986.

DEPARTMENT OF
HOUSING & URBAN DEVELOPMENT

Keith W. Lerch
KEITH W. LERCH
Authorized Representative

This Instrument Recorded 5-19- 1986
Mary L. Clark, Recorder, Hamilton County, Ind.

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICITONS WAS PREPARED BY: Mark E. Bell, Attorney at Law

EXHIBIT "A"

The following Lot Owners of Beachplace Lake Homes hereby execute this List of Owners on April 20, 1986, and hereby acknowledge their approval of the Amendments contained herein.

Lot Number	Owner	Signature
1	Stephanie Webster	
2	Thomas and Melissa Eldredge Veith	Melissa Eldredge Veith
3	Mr. and Mrs. Alfred C. Lones	
4	Mr. and Mrs. Brian T. Waalkes	Brian Waalkes
5	Mr. and Mrs. Lyle S. Holder	L. Steph. Holder
6	Mr. and Mrs. Tom McCann	
7	Nancy Stonebreaker	
8	Mr. and Mrs. Roger D. Peck	
9	Mr. and Mrs. Reece	
10	Mr. and Mrs. Norman D. Atchison	
11	Mark E. Bell	
12	Mr. and Mrs. John M. Haffner	
13	Dr. and Mrs. Edwin E. Pontius	
14	Mr. and Mrs. Dale L. Singleton	
15	Sally M. Paschal	
16		
17	James F. Weiland	
18	Joseph J. Stefanak	Joseph J. Stefanak (Rusty)
19	Mr. and Mrs. John S. Allen	
20	Mr. and Mrs. Jerry Miller	
21	Mr. and Mrs. James F. Carter	James F. Carter
22	~~Mr. and Mrs. Maurice Callender~~	

EXHIBIT "A"

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Lot Number	Owner	Signature
23	Mr. and Mrs. Bruce Lauger	
24	Mr. and Mrs. Larry B. Bartlett	
25	Thomas and Melissa Eldredge Veith	
26	Mr. and Mrs. Wayne Tush	
27	Mr. John M. Webber	
28	Mr. John S. Green	

This Instrument Recorded 5-19- 1986
Ivan L. Clark, Recorder, Hamilton County, Ind.