

The Lakes of Hazel Dell

Carmel, Indiana

Lakes of Hazel Dell Homeowners Association

Architectural Standards

September 1, 2004

As set out in the Declaration of Covenants, Conditions, Restrictions, Liens, and Reservations of Easements for The Lakes of Hazel Dell, (recorded on January 18, 2001 as instrument No. 200100002776), The Lakes of Hazel Dell Board of Directors have established the following Standards, Guidelines, and Procedures.

The Lakes of Hazel Dell Homeowners Association Board of Directors shall have exclusive jurisdiction over any improvement, additional, alteration made on or to an existing lot or structures on the lots. All property owners within the community must obtain prior written approval of The Lakes of Hazel Dell Homeowners Association prior to any improvement, addition, or alteration.

Lakes of Hazel Dell Homeowners Association – Architectural Control Mission Statement

To preserve and maintain an aesthetically pleasing design for the community and to protect and promote the homeowners and the communities value of the property.

I.) Obtaining approval from the Lakes of Hazel Dell Homeowners Association

A fully completed and submitted Architectural Approval form (Exhibit A), with an attached plot plan, which shows the location and dimensions of the proposed improvements, additions, and/or alterations, are required for approval. A drawing or brochure of the proposed improvements may also be attached to each plot plan. Please submit all required information to:

Kirkpatrick Management Company

ATTN: Lakes of Hazel Dell HOA

5702 Kirkpatrick Way

PO Box 20630

Indianapolis, IN 46220-0630

Approval or denial shall be made within 14 days after the reviewing faculty has received proper submission. If a homeowner has not received any notification, then it is the obligation of the submitter to verify by registered mail, that they have not received approval in 14 days. In no event shall the lack of notification be construed as approval from the Lakes of Hazel Dell Homeowners Association. In order to prevent delays, please remember to submit all required forms and plot plans.

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Failure of such required approvals could lead up to and including the removal of the improvement, addition, and alterations. All such incurred expenses of removal would be the responsibility of the homeowner.

The following improvements, additions, and alterations (Exhibit B) are both from within the current covenants and from the verbal and/or written requests of the Lakes of Hazel Dell community members. They have been reviewed and approved by the Board of Directors of The Lakes of Hazel Dell Homeowners Association. Upon any further modifications, the HOA Board of Directors will provide an updated version of this document.

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Exhibit B

Exterior Dwelling Appearance

The exterior of all dwellings shall be kept in a neat and orderly manner. The exterior design and color must conform with surrounding dwellings and within the covenants. It is required that all paint color changes, including exterior doors, shutters, and siding are approved by The Lakes of Hazel Dell HOA Board. The HOA Board may require the repainting of the improvement, addition, or alteration if it does not conform to approved colors.

Exterior Yard Appearance

The exterior of all dwellings including the yard shall be kept in a neat and orderly manner. Lawns should be cut and well maintained and should not exceed a height of 8 inches. Gardens and or landscaping beds must be kept in a clean and maintained, free of weeds and other items not meant for landscaping beds and yards. Additional landscaping may not negatively impact another homeowner's view of a pond or common area and or block traffic site lines.

Garbage Cans

Shall be stored and maintained inside the residence garage, and out of public view except on the day of trash collection.

Yard Lights

Should be uniform throughout the neighborhood. (Unless approved by HOA Board) All owners should replace burned out bulbs immediately.

Fencing/Screening

Metal chain link fences are not permitted. Cedar, treated wood, metal, or vinyl shadow box or picket style fence shall be the community standard. Fences other than shadow box, or picket will be considered on an individual basis. Any color other than a natural wood stained is subject to approval by HOA Board. ***Fencing shall not extend forward of a line parallel to the rear wall of the home.*** Fences shall not exceed 4 feet from the ground. All picket or one-sided fencing must be installed so that the rail side of the fence faces the interior of the property, not towards another resident. Privacy screening may not exceed 6 feet in height from the ground. (Not from a deck) Privacy screening is defined as providing privacy barrier around a patio or deck area. The screening must be maintained within 5 feet of the deck/patio, but the screening may never extend beyond the foundation of the home to the property line.

Satellite Dishes

Two feet in diameter is the maximum size allowed. Satellite Dishes may not be located beyond the front plane of the home. Preferably, the satellite dish is located on the rear of the home and is concealed from the site lines of the home when looking from the front street of the home. Understanding, the dish must have exposure to the southwest; the HOA Board will work with the homeowner to find an accessible location for service. If the satellite dish is mounted on the ground, the homeowner may be required to install some type of screening.

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Pools

No above ground pools are permitted

Trampolines

Homeowners must get approval for installation and placement/location

Playground Equipment

Must be constructed of treated wood, cedar, or redwood. Height restrictions and maintenance may be imposed. Location must be approved and not impose upon easements or other similar boundaries

Basketball Goals

All basketball backboards must be made of transparent materials. Basketball goals may not be attached to either the home or the garage. The HOA Board must approve the location of the goals. Portable goals are allowed, but shall never be placed in a location that encourages play in a public right of way (sidewalks, streets, or common areas)

Driveways

Shall be constructed of concrete material or brick pavers; no asphalt is allowed. All driveway extensions must be approved prior to installation.

Mailboxes

Shall be of uniform style, construction, letters and numbers, and color of the entire neighborhood. No painting on curbsides is permitted. Mailboxes may not be relocated by the homeowner.

Doghouses or Dog Runs

Dogs are not permitted to live in, be chained or penned, within a dog house or dog run in the community

Storage Sheds/Outer Buildings

Not allowed within the community

Firewood

Firewood may not be stored within public view. No more than two cords of wood are allowed to be stored anywhere on the property.

Room Additions

To include screened or covered porches. All room additions must have prior approval of the HOA Board. The roof shingles, siding, and windows must be of identical materials of the existing home. Dimensions (including roof pitch) and timetable for construction must be submitted.

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Recreational Vehicles

Recreational Vehicles, which include motor homes, boats, jet skis, and snowmobiles, may not be stored on the exterior of the property. These vehicles may be maintained for a maximum of 24 hours for maintenance or upkeep at a time not to exceed more than 10 days annually, on the driveway of the homeowner's property.

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Decks

Decks must be attached to the exterior of the house in accordance to local zoning and construction laws. Wood or "Trex" types of material are the only permitted materials for construction. Decks must be stained/preserved to preserve both value and aesthetic appeal.

EXHIBIT C

ARTICLES OF INCORPORATION OF THE LAKES OF HAZEL DELL HOMEOWNERS' ASSOCIATION, INC.

The undersigned sole incorporator, Mark Schumacher, executes these Articles of Incorporation for the purpose of forming and hereby forms a non-profit corporation pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991, in accordance with the following provisions:

ARTICLE 1 - NAME

The name of the corporation shall be The Lakes of Hazel Dell Homeowners' Association, Inc.

ARTICLE 2 - TYPE OF CORPORATION

This corporation is a mutual benefit corporation.

ARTICLE 3 - PURPOSE

The purpose for which said non-profit corporation is formed, and other provisions pertaining to this non-profit corporation and its powers are set forth in the Articles herein. This non-profit corporation, hereinafter sometime referred to as the "Association," does not contemplate pecuniary gain or profit to its Members. The specific purposes for which this corporation is formed is to act as the Lot Owners' Association with regard to the Property specifically described in the Declaration of Covenants, Conditions and Restrictions, Liens and Reservation of Easements (the "Declaration") applicable to the Property (as defined in the Declaration). The Declaration will be recorded in the property records of Hamilton County, Indiana. Capitalized terms not defined herein shall have the meanings given such terms in the Declaration. In addition, this Association is formed to provide for the maintenance, preservation and architectural control of the Property and the buildings and improvements situated thereon under the terms of this Declaration, and to promote the health, safety and welfare of the residents and Owners of the Property and to act in the same manner with regard to any other property which may hereafter be brought within the jurisdiction of the Association as part of the same plan, and for these purposes:

- (a) to exercise all the power and privileges and to perform all of the duties and obligation of the Association as set forth in the Declaration or as the same may be amended from time to time;

- (b) to fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office, administrative, and other expenses incident to the conduct of business of the Association, including all license fees, taxes or governmental charges levied or imposed against the Property of the Association;
- (c) to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association and subject to the terms of the Declaration;
- (d) to borrow money, and with the assent of a majority of the voting power of the Association, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, but only to the extent permitted by the Declaration;
- (e) to acquire additional Lots, easement areas, and Common Property, in addition to that described in the Declaration when it was first recorded, but only in accordance with the provisions of the Declaration;
- (f) to own, acquire, build and operate real and personal property in accordance with the Declaration;
- (g) to obtain, pay for and maintain insurance to the extent provided in the Declaration;
- (h) to do any other things necessary, expedient, incidental, appropriate or convenient to the carrying out of the foregoing purposes or which will promote the common benefit and enjoyment of the residents or Owners of the Lots, insofar as not prohibited by law or the Declaration; and
- (i) to have and to exercise any and all powers, rights and privileges which a corporation organized under the Indiana Nonprofit Corporation Act of 1991, as amended, by law may now or hereafter have or exercise, insofar as not prohibited by the Declaration.

ARTICLE 4 - REGISTERED OFFICE AND AGENT

The Association's initial registered office in Indiana is 2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214 and the initial registered agent at such address is Peter Hils.

ARTICLE 5 - ADDRESS

The mailing address of the Association's principal office is 2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214.

ARTICLE 6 - TRUSTEES

The Association shall be managed by the Board, who need not be members of the Association. The number of Trustees may be designated as not less than three (3) nor more than seven (7) members by said Association. The names and addresses of the persons who are to act in the capacity of initial Trustees until the selection of their successors are:

<u>Name</u>	<u>Term of Office</u>	<u>Address</u>
Peter Hils	One Year	2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214
Shad McConkey	One Year	2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214
Jarrold Klein	One Year	2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214

ARTICLE 7 - MEMBERSHIP

The Association will have members. Every Owner (as defined in the Declaration) subject to the covenants contained in the Declaration, and to assessments levied by the Association, including purchasers on land installment contracts and contract sellers on forms of executory contracts for the sale of a Lot (as defined in the Declaration), but excluding those holding record title or a similar interest merely as security for the performance of an obligation, shall automatically upon acquisition of such ownership interest in a Lot be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Membership shall terminate upon the sale or other disposition by an Owner of his/her ownership interest, at which time the new Owner shall automatically become a Member of the Association.

ARTICLE 8 - VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A - Class A Members shall be all Owners (with the exception of the Developer (as defined in the Declaration) for as long as Class B membership exists), who shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, the vote for such Lot shall be exercised as the majority of such persons among themselves determine, but in no event shall more than one vote be cast with respect to any Lot notwithstanding the number of persons who may have an interest therein. The Board shall be entitled to suspend voting rights of a Member in the Association during the period in which the Member has breached the provisions of the Declaration or any of the By-Laws, rules or regulations of the Association.

Class B - The Class B Member shall be the Developer, and such Member shall be entitled to a number of votes as will constitute seventy-five percent (75%) of the total voting power of the Association, as long as the Class B membership continues to exist. The Class B membership shall continue to exist to the extent permitted by Indiana law and shall be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier:

- (a) Upon the sale of seventy-five percent (75%) of the Lots included from time to time to individual Lot Owners;
- (b) Upon the expiration of seven (7) years from the date the Declaration is recorded.

Provided, further, that nothing contained in the Declaration or herein shall be construed to prohibit the Class B Member from converting its Class B membership to Class A membership with the results set forth above at any time prior to the occurrence of the alternative events referred to above, by a written statement executed by the Developer and delivered to the Association.

ARTICLE 9 - DISSOLUTION

Upon dissolution of the Association, any assets remaining after payment or adequate provision for payment of all debts and obligations of the Association shall be expended in furtherance of the purposes set forth herein. If no successor in interest to the Association is formed to administer the property of the Association, its assets shall be distributed by the Board consistent with the provisions of the Indiana Nonprofit Corporation Act of 1991, as then in effect.

ARTICLE 10 - DURATION

The Association shall exist perpetually, unless dissolved earlier under the terms of these Articles.

ARTICLE 11 - AMENDMENTS

Amendments of these Articles shall require the assent of Members holding at least seventy-five percent (75%) of the total voting power of the Association, except as provided in the Declaration.

ARTICLE 12 - DEALINGS WITH ASSOCIATION

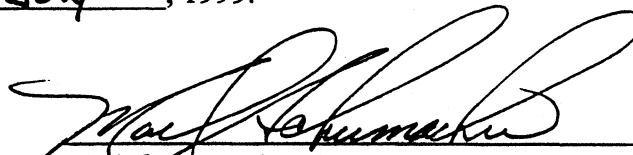
A Trustee or officer of the Association shall not be disqualified by his/her office from dealing or contracting with the Association as a vendor, purchaser, employee, agent or otherwise; nor shall any transaction, contract or act of the Association be void or voidable or in any way affected or invalidated by reason of the fact that any Trustee or officer or any firm which such Trustee or officer is a member, or any corporation of which such Trustee or officer is a

shareholder, director or officer, is in any way interested in such transaction, contract or act. No Trustee or officer shall be accountable or responsible to the Association for or in respect to any such transaction, contract or act, or for any gains or profits realized or by any organization affiliated with him/her as a result of such transaction, contract or act. Any such Trustee or officer may be counted in determining the existence of a quorum at any meeting of the Board which shall authorize or take action in respect to any contract, transaction or act, and may vote to authorize, ratify or approve any such contract, transaction or act, with like force and effect as if the Trustee or officer were not interested in such transaction, contract or act.

ARTICLE 13 - INDEMNIFICATION OF TRUSTEES, OFFICERS OR EMPLOYEES

The Association shall indemnify any and every Trustee or officer against expenses, judgments, fines, penalties or amounts paid in settlement in connection with the defense of any pending or threatening action, suit or proceeding, to which such Trustee or officer is or may be made a party by reason of being or having been such Trustee or officer provided a determination is made by the Trustees in the manner set forth in the Indiana Nonprofit Corporation Act of 1991, as amended, to the effect (a) that such Trustee or officer was not, and has not been adjudicated to have been, negligent or guilty of misconduct in the performance of their duty to the Association of which they are a Trustee or officer, and (b) that they acted in good faith in what they reasonably believed to be the best interest of the Association. Such indemnification shall not be deemed exclusive of any other rights to which such Trustee or officer may be entitled under these Articles, the rules and regulation of this Association, any agreement or any insurance purchased by this Association, or by vote of the Members, or otherwise.

IN WITNESS WHEREOF, for the purpose of forming this Association under the laws of the State of Indiana the undersigned Incorporator of this Association has executed these Articles of Incorporation on this 27th day of July, 1999.



Mark Schumacher, Incorporator
2629 Waterfront Parkway East Drive, Suite 301
Indianapolis, Indiana 46214

EXHIBIT B

**BY-LAWS AND
CODE OF REGULATIONS OF
THE LAKES OF HAZEL DELL HOMEOWNERS' ASSOCIATION, INC.**

This instrument prepared by:

Jan R. Wenning, Esq.
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

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BY-LAWS AND CODE OF REGULATIONS OF
THE LAKES OF HAZEL DELL HOMEOWNERS' ASSOCIATION, INC.

ARTICLE 1 - NAME AND LOCATION

- 1.1 **Name and Location.** The name of the corporation is The Lakes of Hazel Dell Homeowner's Association, Inc., hereinafter referred to as "Association." The principal office of the Association shall be c/o Zaring Homes of Indiana, L.L.C., 2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214. Meetings of the Association and Board may be held at such places within Marion County, Indiana or Hamilton County, Indiana, as designated by the Board.

ARTICLE 2 - DEFINITIONS

- 2.1 **Declaration.** "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, Restrictions, Liens and Reservation of Easements applicable to the Property recorded in the office of the Recorder of Hamilton County, Indiana, as the same may be amended, from time to time. The terms, provisions, conditions and restrictions of the Declaration, as related to the Association and its Members, the Board, officers and committees, are incorporated by reference with the same force and effect as is fully set out in these By-Laws (hereinafter referred to as the "By-Laws").
- 2.2 **Association, Owner, Property, Lot, Common Property, Dwelling Unit, Member and Developer.** As used in these By-Laws, the terms "Association," "Owner," "Property," "Lot," "Common Property," "Dwelling Unit," "Member," "Trustee," "Board" and "Developer" shall have the same meaning as defined in the Declaration.

ARTICLE 3 - MEETING OF ASSOCIATION

- 3.1 **Annual Meeting.** The annual meeting of the Association Members for the purpose of electing Trustees and for the transaction of such other business as may properly come before the Association shall be held annually at such time and place as determined by the Board.
- 3.2 **Special Meetings.** Special meetings of the Association shall be called at any time by the President of the Association or by the Board, or upon written request of the Members who are entitled to vote one-third (1/3) of all the votes of Membership.
- 3.3 **Notice of Meeting; Waiver.** Reasonable written notice of each meeting of the Association shall be given to each Member. Each notice shall specify the date, time and location of the meeting, and, in the case of a special meeting, shall specify the purpose of the meeting. The notice shall be delivered personally or mailed postage prepaid to all Members. Failure by a Member to receive a properly mailed notice shall not affect the validity of action taken by the Board at any meeting for when the notice was issued.

- 3.4 **Quorum.** The presence at the meeting of Members entitled to vote, or of proxies entitled to vote, fifty percent (50%) of the votes, including the Class B Member (if Class B Membership then exists) shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these By-Laws. Whether or not a quorum is present, the majority of the Members present at a meeting may by vote adjourn that meeting.
- 3.5 **Proxies.** At all meetings of the Association, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary of the Association prior to commencement of the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his/her Lot.
- 3.6 **Voting.** The affirmative vote of the Class B Member (if Class B membership then exists) and a majority of the Class A Members present, either in person or by proxy, shall decide any issues brought before the Association, unless the issue is one upon which a quorum or a different vote is required by provision of the laws of the State of Indiana, the Declaration, the Articles of Incorporation or these By-Laws.
- 3.7 **Action by Association Without Meeting.** Any action that may be taken at a meeting of the Association may be taken without a meeting if written approval and consent, setting forth the action authorized shall be signed by the Class B Member (if the Class B membership then exists) and a majority of the total voting power of all Class A Members of the Association. This written consent shall be filed with and entered upon the records of the Association.
- 3.8 **Suspension of Voting Privileges.** No Member shall be eligible to vote or to be elected to the Board who is shown on the records of the Association to be more than thirty (30) days delinquent in the payment of any assessment due the Association.

ARTICLE 4 – BOARD OF TRUSTEES; SELECTION; TERM OF OFFICE

- 4.1 **Number.** Until altered by a vote of the Association, there shall be five (5) Trustees of the Association. It is not necessary that the Trustees be Members of the Association.
- 4.2 **Term of Office.** At the first annual meeting, the Developer shall elect three (3) Trustees for a term of one (1) year, and the Members, other than the Developer, shall elect two (2) Trustees for a term of one (1) year, and at each annual meeting thereafter, the Class A Members shall elect two (2) Trustees and Class B Member shall elect three (3) Trustees, for a term of one (1) year, or until their successors are elected and qualified. At such time as Class B membership terminates, as provided in the Declaration and the Articles of Incorporation, all Trustees shall be elected by the Association for a term of one (1) year, or until their successors are elected and qualified.
- 4.3 **Removal.** Any Trustee may be removed from the Board, with or without cause, by a majority vote of the Association. In the event of death, resignation or removal of a Trustee, the successor shall be selected by the remaining Trustees on the Board and shall serve for the unexpired term of the Trustee's predecessor. However, any Trustee elected

or appointed by the Developer may only be removed by the Developer, and the successor may only be appointed by the Developer, to serve for the unexpired term.

- 4.4 **Compensation.** Trustees shall serve without compensation except Trustees may be reimbursed for the actual expenses incurred in the performance of their duties.
- 4.5 **Action Taken Without a Meeting.** The Trustees shall have the right to take any action without a meeting which they could take at a meeting by obtaining the written approval of all Trustees. Any action so approved shall have the same effect as though taken at a meeting of the Board.

ARTICLE 5 – NOMINATION AND ELECTION OF TRUSTEES

- 5.1 **Nomination.** Nomination for election to the Board shall be made from the floor at the Association's annual meeting. Nominations may be made from among Members or non-Members. The Board of Trustees shall take as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.
- 5.2 **Election.** Election to the Board shall be by secret written ballot. At such election, the Members, in person or by proxy may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration and Section 3.6 of these By-Laws. The individual receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE 6 – MEETINGS OF TRUSTEES

- 6.1 **Regular Meetings.** The Board shall meet annually after the annual meeting of the Association. In addition to its annual meeting, the Board shall have regular meetings established as to time and location by resolution of the Board. In the event any regular meeting falls upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.
- 6.2 **Special Meetings.** Special meetings of the Board shall be called by the President of the Association, or by any three (3) Trustees, after not less than three (3) days notice to each Trustee unless such notice period is waived.
- 6.3 **Quorum.** A majority of Trustees shall constitute a quorum for the transaction of business. Every business decision made by a majority of the Trustees present at a meeting at which a quorum is present shall be regarded as an act of the Board.

ARTICLE 7 – GENERAL POWERS AND DUTIES OF THE BOARD OF TRUSTEES

- 7.1 **General Powers and Duties.** The Board shall have the power to:

- 7.1.1 maintain corporate surveillance over all the Association's activities;
- 7.1.2 determine the Association's programs and policies, and assure that such policies and programs are designed to serve the philosophies, objectives and purposes of the Association;
- 7.1.3 approve organization aspects of the Association and delegation of authority on matters;
- 7.1.4 delegate to appropriate persons the authority to conduct the business of the Association and carry out the policies and programs approved by the Board;
- 7.1.5 appoint a competent staff and determine its authority and responsibilities;
- 7.1.6 make provisions for establishment of various auxiliaries to aid in accomplishing the objectives of the Association;
- 7.1.7 provide for financial stability;
- 7.1.8 analyze and evaluate the total operation, including all activities and services;
- 7.1.9 adopt and publish rules and regulations governing the use, maintenance, repair and replacement of all easement areas and Common Property;
- 7.1.10 suspend the voting rights and the right to use the Common Property and community facilities of a Member during any period in which such Member shall be in default in the payment of any assessments levied by the Association, such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days per infraction of published rules and regulations; and
- 7.1.11 employ a managing agent, and independent contractor, or such other employees as the Board deems necessary and to prescribe their duties.

ARTICLE 8 – OFFICERS

- 8.1 **Number and Office.** The officers of the Association shall consist of a President, Vice-President, Secretary and Treasurer. The Officers shall be elected by a majority vote at the first meeting of the Board following each annual meeting of the Members.
- 8.2 **Powers and Duties.** Subject to such limitations as the Board may from time to time prescribe, the officers shall each have powers and perform such duties as generally pertain to their respective offices and such further powers and duties as may be conferred from time to time by the Board.

8.3 Officers.

8.3.1 **President.** The President shall be the principal officer of the Association and shall be a Member of the Board.

8.3.2 **Vice President.** In the absence of the President, the Vice President shall assume the powers and the duties of the President.

8.3.3 **Secretary.** The Secretary shall be responsible for sending notice of all meetings of the Association and the Board. The Secretary shall keep the minutes of the Association and the Board meeting.

8.3.4 **Treasurer.** The Treasurer shall collect and disburse the funds of the Association and report on the financial condition of the Association.

8.4 **Term.** The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year until a successor is elected, unless an officer shall resign, be removed or otherwise disqualified to serve.

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

8.6 **Resignation and Removal.** Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. The resignation shall take effect on the date the notice is received or at any time specified therein. The acceptance of such resignation shall not be necessary to make it effective.

8.7 **Vacancies.** A vacancy in an office shall be filled by an appointment by the Board. The officer appointed to a vacancy shall serve the remaining term of the officer replaced.

8.8 **Multiple Offices.** The office of Secretary and Treasurer may be held by the same individual. No individual shall simultaneously hold more than one of the other offices except in the case of special offices created pursuant to Section 8.5 of this Article.

ARTICLE 9 – COMMITTEES

The Board is hereby authorized to appoint committees as deemed appropriate in carrying out its purposes as provided in the Declaration or By-Laws.

ARTICLE 10 – PROTECTION FROM LIABILITY

To the full extent permitted by the provisions of the Indiana Nonprofit Corporation Act of 1991, as amended, or laws succeeding to or replacing such Act, the Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending,

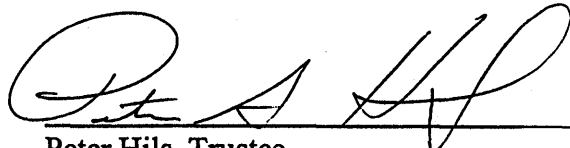
contemplated or completed action, suit or proceeding, whether civil, administrative or investigative (whether by or in the right of the Association or otherwise) by reason of the fact that he or she is or was a Trustee of the officer of the Association, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement of or in connection with any such action, suit or proceeding, provided that such expenses, judgment, fine and amounts are in a reasonable sum and are reasonably incurred. The indemnification provided herein shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled to under the Articles of Incorporation, these By-Laws or any agreement, vote of disinterested Trustees or otherwise, both as to action in his or her official capacity and as to action in another capacity once he or she ceases to be a Trustee, officer, employee or agent, and shall inure to the benefit of the heirs, executors and administrators of such a person.

ARTICLE 11 – MISCELLANEOUS

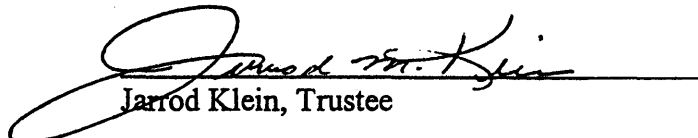
- 11.1 **Books and Records.** The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member, and any holder, insurer or guarantor of a first mortgage on a Lot. The Declaration, Articles and these By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.
- 11.2 **Fiscal Year.** The fiscal year shall begin on the first day of January every year, except that the first fiscal year of the Association shall begin on the date of incorporation. The commencement date of the fiscal year herein established may be changed by the Board should corporate practice subsequently dictate.
- 11.3 **Execution of Association Documents.** All notes, contracts, other documents, checks and other drafts shall be executed on behalf of the Association by such officers, agents or other persons as are from time to time designated by the Board.
- 11.4 **Conflict.** In the case of any conflict between the Articles and these By-Laws, the Articles shall control; and in the case of conflict between the Declaration and these By-Laws, the Declaration shall control.
- 11.5 **Amendments.** These By-Laws may be amended at a regular or special meeting of the Association, by affirmative vote of a majority of the total number of votes cast.

We, the undersigned Trustees of The Lakes of Hazel Dell Homeowners' Association, Inc., a nonprofit Indiana corporation, No. _____, recorded on Roll _____ at Frame _____, of the records of incorporation and miscellaneous filings in the office of the Secretary of State of Indiana, do hereby approve the adoption of the foregoing By-Laws, for the government of said corporation.

Executed at _____ on _____, 1999.


Peter Hils, Trustee


Shad McConkey, Trustee

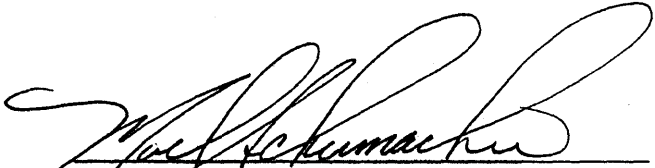

Jarrod Klein, Trustee

638054.01

ORIGINAL APPOINTMENT OF REGISTERED AGENT

The undersigned, being the sole incorporator of THE LAKES OF HAZEL DELL HOMEOWNERS' ASSOCIATION, INC. hereby appoints Peter Hils, a natural person and resident of the State of Indiana, upon whom any process, notice or demand required or permitted by statute to be served upon the corporation may be served. The complete address of Peter Hils is 2629 Waterfront Parkway East Drive, Suite 301, Indianapolis, Indiana 46214.

Date: 7/27/, 1999


Mark Schumacher, Incorporator

ACCEPTANCE

I, Peter Hils, hereby accept appointment as registered agent of The Lakes of Hazel Dell Homeowners' Association, Inc., and any process, notice or demands required or permitted by law to be served upon the Association may be served upon me.

Date: 7/27/, 1999

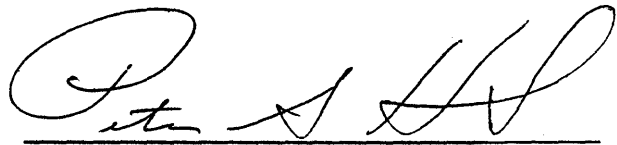

Peter Hils

EXHIBIT A

Legal Description of the Property

2024032486 MISC \$25.00
08/28/2024 02:32:37PM 4 PGS
Trini Beaver
Hamilton County Recorder IN
Recorded as Presented



Cross-Reference:

**Declaration of Covenants, Conditions, Restrictions, Liens and
Reservations of Easements for The Lakes of Hazel Dell, Inst. #200100002776**

JMZ

**THE LAKES OF HAZEL DELL HOMEOWNERS'
ASSOCIATION, INC.**

COMMON PROPERTY RULES

COMES NOW The Lakes of Hazel Dell Homeowners' Association, Inc., by its Board of Directors ("the Board"), effective this 2nd day of July, 2024, and states as follows:

WITNESSETH THAT:

WHEREAS, the residential community in Hamilton County, Indiana, commonly known as The Lakes of Hazel Dell was established upon the recording of certain document(s) with the Office of the Recorder of Hamilton County, Indiana including without limitation the *Declaration of Covenants, Conditions, Restrictions, Liens and Reservations of Easements for The Lakes of Hazel Dell*, on January 18, 2001, as Instrument Number 200100002776 ("the Declaration"), and the *By-Laws and Code of Regulations of The Lakes of Hazel Dell Homeowners' Association, Inc.* ("the By-Laws"), recorded as part of said Instrument as its Exhibit "B;" and

WHEREAS, The Lakes of Hazel Dell Homeowners' Association, Inc. ("the Association") was created according to the terms set forth in the foregoing governing documents; and

WHEREAS, a purpose of the Association is to exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth under the laws of Indiana and as stated in the Declaration, the By-Laws, and the Articles; and

WHEREAS, these powers and privileges of the Association include, but are not limited to, the effective administration of the Association's affairs regarding activities in the community that impact the Common Property and Lots; and

WHEREAS, Article 4, Section 4.3(O) of the Declaration provides that "[t]here shall be no violation of any rule or regulation for the use of any Common Property which may from time to time be adopted by the Board and promulgated among the members in writing" and further that "[t]he Board is hereby authorized to adopt such rules[;]" and

WHEREAS, Article 5, Section 5.1(B) of the Declaration empowers the Board “to adopt, enforce and amend reasonable rules and regulations pertaining to the use of the Common Property[;]” and

WHEREAS, Article 7, Section 7.1.9 of the By-Laws empowers the Board to “adopt and publish rules and regulations governing the use . . . of . . . Common Property[;]” and

WHEREAS, the Association’s Common Property includes the Community Center’s pool facility; and

WHEREAS, Article 2, Section 2.4 of the Declaration provides, in part, that all Lakes of Hazel Dell lot owners “shall comply with . . . rules and regulations of the Association and the decisions and resolutions of the Association or its representatives[;]” and

WHEREFORE BE IT RESOLVED that the Board now adopts the following rules pursuant to its authority and consistent with the provisions in the Declaration and the By-Laws, as outlined above.

[End of Recitals]

RULES

1. The foregoing recitals are incorporated herein by this reference.
2. No industry, trade, or other commercial activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on Common Property, without prior written approval from the Board.
3. No Owner shall permit anything to be done or kept on Common Property which may cause an increase in the rate of insurance maintained by the Association.
4. No Owner shall permit anything to be done or kept on Common Property which may result in a cancellation of insurance maintained by the Association or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Board has approved and the undersigned have executed this Rule this 2nd day of July, 2024.

THE LAKES OF HAZEL DELL HOMEOWNERS' ASSOCIATION, INC.

Ronald Zhiss
Ronald Zhiss, Director

James Haynes
James Haynes, Director

Roger Conn
Roger Conn, Director

Matthew Carlton
Matthew Carlton, Director

STATE OF INDIANA)
) ss:
COUNTY OF HAMILTON)

Before me a Notary Public in and for said County and State, personally appeared Ronald Zhiss, Roger Conn, James Haynes, and Matthew Carlton, who comprise the Board of Directors of The Lakes of Hazel Dell Homeowners' Association, Inc., and who each acknowledged execution of the foregoing instrument, and who, each having been duly sworn, states that the representations contained herein are true.

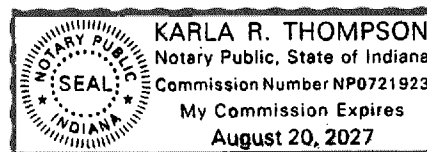
Witness my hand and Notarial Seal this 2 day of July, 2024.

Karla R. Thompson
Notary Public – Signature

Hancock
County of Residence

Karla R. Thompson
Printed

August 20 2027
Commission Expires



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



This document was prepared by and should be returned to:

Stephen R. Donham
THRASHER BUSCHMANN & VOELKEL, P.C.
8440 Woodfield Crossing Blvd., Ste. 310
Indianapolis, IN 46240

DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS,
LIENS AND RESERVATIONS OF EASEMENTS
FOR
The Lakes of Hazel Dell

INSTRUMENT NO. 9944845

Prepared by:

Jan R. Wenning, Esq.
Frost & Jacobs LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

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A	--	Legal Description for the Property
B	--	By-Laws of the Association
C	--	Articles of Incorporation of the Association

DECLARATIONS OF COVENANTS, CONDITIONS, RESTRICTIONS,
LIENS AND RESERVATIONS OF EASEMENTS FOR

The Lakes of Hazel Dell

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, LIENS AND RESERVATIONS OF EASEMENTS FOR **The Lakes of Hazel Dell** ("Declaration") is made this ____ day of _____, 1999, by **Zaring Homes of Indiana, L.L.C.** ("Developer") and **First Cincinnati Land LLC ("FCL")**, under the following circumstances:

WHEREAS, FCL is the owner of all or part of certain real property located in Hamilton County, Indiana, more particularly described in Exhibit A attached to this Declaration (the "Property").

WHEREAS, Developer is the owner of or will be acquiring from FCL all or part of the Property.

WHEREAS, Developer desires to declare that the Property shall be held, sold and conveyed subject to the provisions of this Declaration.

WHEREAS, Developer has formed The Lakes of Hazel Dell Homeowners' Association, Inc., a non-profit corporation, which shall be responsible for the administration and enforcement of the provisions of the Declaration (the "Association").

WHEREAS, Developer owns or may acquire other real property in the vicinity of the Property that may be annexed to the Property, enjoy the benefit of all amenities in The Lakes of Hazel Dell, and be subjected to this Declaration (the "Additional Property").

NOW, THEREFORE, for the purposes of establishing and assuring a uniform plan for the development of the Property, and enhancing and protecting the value, desirability and attractiveness of the Property, Developer declares that the Property shall be held, occupied, sold and conveyed subject to this Declaration and be binding on all parties having any right, title and interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE 1 - DEFINITIONS

In addition to any definitions contained elsewhere in this Declaration, the following terms used in this Declaration shall have the meanings set forth in this Article 1.

- 1.1 **Additional Property.** "Additional Property" means other real property in the vicinity of the Property which is owned and/or acquired by Developer which may be annexed to The Lakes of Hazel Dell, enjoy the benefit of all amenities in The Lakes of Hazel Dell, and be subject to this Declaration.

- 1.2 **Articles and Articles of Incorporation.** "Articles" and "Articles of Incorporation" mean those articles, as the same may be amended from time to time, filed with the Indiana Secretary of State, incorporating The Lakes of Hazel Dell Homeowners' Association, Inc. as a non-profit corporation under the laws of Indiana. A true copy of the Articles is attached hereto as Exhibit C and made a part hereof.
- 1.3 **Assessments.** "Assessments" means the charges established by Article 3 of this Declaration.
- 1.4 **Association.** "Association" means The Lakes of Hazel Dell Homeowners' Association, an Indiana non-profit corporation, which will own, operate and/or maintain the Common Property, and any successor organization that owns, operates and/or maintains the Common Property.
- 1.5 **Board.** "Board" means the Board of Trustees of the Association.
- 1.6 **Builder.** "Builder" means any person or entity, other than the Developer, who, in the ordinary course of business, constructs a Dwelling Unit with or without accessory structures (i) for resale to, or on behalf of, a third party, or (ii) for Builder's own use or the use of Builder's family. A Builder may or may not be an Owner.
- 1.7 **By-Laws.** "By-Laws" means the By-Laws or Code of Regulations of the Association, as the same may be amended from time to time. A true copy of the By-Laws is attached hereto as Exhibit B and made a part hereof.
- 1.8 **Common Expenses.** "Common Expenses" means those expenses described in Section 3.2.
- 1.9 **Common Property.** "Common Property" means all real and personal property owned by, leased to or under the control of the Association for the benefit, use and enjoyment of the Owners and including any easements or other rights over real property adjacent to or near the Property which easements or other rights are created for the benefit of the Association.
- 1.10 **Declaration.** "Declaration" means this instrument as the same may be amended from time to time as hereinafter provided.
- 1.11 **Default.** "Default" means any violation, breach or any failure to comply with, this Declaration or the By-Laws, or other standards, rules or regulations adopted pursuant to this Declaration.
- 1.12 **Developer.** "Developer" means exclusively Zaring Homes of Indiana, L.L.C., an Indiana limited liability company, its successors and assigns.
- 1.13 **Dwelling Unit.** "Dwelling Unit" means any building or portion of a building situated upon a Lot designed and intended for use and occupancy as a residence by persons or a single family.

- 1.14 **Lot.** "Lot" means any parcel shown as such on the record plat of The Lakes of Hazel Dell. Unless the context otherwise requires, the term "Lot" shall be deemed to include both the parcel of land and the Dwelling Unit on that land, if any, excluding Common Property.
- 1.15 **Member.** "Member" means any Owner who is a member of the Association as provided in the Articles of Incorporation.
- 1.16 **Owner.** "Owner" means the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of The Lakes of Hazel Dell, including purchasers on land installment contracts and including contract sellers on other forms of executory contracts for the sale of a Lot, but excluding those having such interest merely as security for the performance of an obligation.
- 1.17 **Phase or Section.** "Phase or Section" shall mean all of the land area encompassing a group of Lots as designated on a recorded subdivision plat including streets and Common Property.
- 1.18 **Property.** "Property" means that real property located in Hamilton County, Indiana, more particularly described in Exhibit A to this Declaration.
- 1.19 **The Lakes of Hazel Dell.** "The Lakes of Hazel Dell" means all phases or sections of the record plat for The Lakes of Hazel Dell, a subdivision in Hamilton County, Indiana, and consisting of the Property and Additional Property from time to time made subject to the provisions of this Declaration.
- 1.20 **Trustee.** "Trustee" means any person elected or appointed to the Board.

ARTICLE 2 - ASSOCIATION MEMBERS AND VOTING

- 2.1 **Members.** Every Owner shall be a member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of a Lot. Developer shall be a member of the Association so long as it qualifies as a Class A or Class B member as defined in Section 2.2.
- 2.2 **Classes and Voting Rights.** The Association shall have two (2) classes of voting memberships:
- A. CLASS A – Class A members shall be all the Owners, except the Developer (if the Class B membership exists). Except as provided below, Class A members shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, the vote for such Lot shall be exercised as the majority of such persons among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot notwithstanding the number of persons who may own an interest therein. The Board shall be entitled to suspend voting rights of a Member in the Association during the time period in which the Member is in Default.

B. CLASS B – The Class B member shall be the Developer, and such member shall be entitled to such number of votes as will constitute seventy-five percent (75%) of the total voting power of the Association, so long as the Class B membership continues to exist. The Class B membership shall continue to exist to the extent permitted by Indiana law and shall be converted to Class A membership upon the happening of either of the following events, whichever occurs earlier:

- (a) Upon the sale of seventy-five percent (75%) of the Lots included from time to time to individual Lot Owners;
- (b) Upon the expiration of seven (7) years after the date this Declaration is filed for record. Provided, further, that nothing herein shall be construed to prohibit the Class B member from converting its Class B membership to Class A membership at any time earlier by written statement executed by Developer and delivered to the Association.

2.3 **Administration by Association.** Subject to the rights retained by Developer pursuant to this Declaration, the ownership, operation and maintenance of the Common Property and of the administration and enforcement of this Declaration shall be by the Association in accordance with the terms and provisions of this Declaration.

2.4 **Compliance by Owners.** Each Owner, tenant or occupant of a Lot shall comply with the provisions of this Declaration, By-Laws, rules and regulations of the Association and the decisions and resolutions of the Association or its representatives, all as lawfully amended from time to time. Failure to comply with any such provisions, rules and regulations, decisions and resolutions shall be grounds for an action to recover sums due and for damages and injunctive and other appropriate relief.

ARTICLE 3 - ASSESSMENTS

3.1 **Covenant of Payment; Creation of Lien.** Each Owner of a Lot (other than Developer, except as hereinafter provided), by acceptance of a deed or other instrument of conveyance for a Lot, agrees to pay to the Association the Assessments provided in this Article 3. The Assessments (including late charges and costs of collection, as provided below) shall be a charge and a lien on each Lot and shall be the personal obligation of the Owner of each Lot, to the extent and for the period provided in this Article 3.

3.2 **Purpose of Annual Assessment.** The annual assessment is established for the benefit and use of the Association and shall be used in covering all of the Common Expenses; the operation, maintenance, and repair of Common Property; other portions of the Property that the Association is obligated to repair under this Declaration; and the performance of all other duties and obligations to be performed by the Association under this Declaration. The Common Expenses may include, but are not limited to, the costs of employees' wages, materials, equipment, supplies, insurance premiums for the insurance of Common Property, officers and Trustees liability insurance, rental fees for any Common Property leased to the Association, the cost of reasonable reserves for contingencies, replacements, and working capital, taxes and assessments on the Common

Property, management fees, legal and accounting fees, capital improvements and additions for Common Property, and all other costs and liabilities incurred by the Association in the exercise of its powers and duties pursuant to this Declaration or the By-Laws.

3.3 Initial Assessment. Upon the initial conveyance of a Lot by the Developer or a Builder to an Owner, the Owner shall pay an initial assessment of \$500.00. The initial assessment shall be used as working capital for the Association and not collected in lieu of any installments of the annual assessment. The initial assessment is non-refundable. No initial assessment shall be due on any Lot purchased from an Owner other than the Developer or a Builder, nor shall any initial assessment be due on any Lot purchased from the Developer by a Builder.

3.4 Annual Assessment. The annual assessment or prorated portion thereof for each Lot Owner in each respective Phase or Section of The Lakes of Hazel Dell shall commence on the first day of the month following the conveyance of the first Lot from Developer or Builder to an Owner (other than a Builder) in that Phase or Section of The Lakes of Hazel Dell. Not later than the initial conveyance of a Lot in a Phase or Section to an Owner (other than a Builder), the Developer shall convey all Common Property within that specific The Lakes of Hazel Dell Phase or Section to the Association. The Board shall have the right to require the annual assessment to be paid in periodic installments during the year or in a single installment as determined by the Board and the annual assessment shall be due and payable on such date or dates as determined by the Board. It shall be the duty of the Board to determine the amount of the annual assessment allocated to each Lot. The Board shall make reasonable efforts to determine the assessment amount for the following year, by the first day of December of each year, and shall at that time, prepare a roster of the Lots and the portion of the assessment allocated thereto, which shall be open for inspection by any Owner upon reasonable notice to the Board. The Board shall be entitled to change the method of collection of assessments as it may, from time to time, elect. Notwithstanding anything herein to the contrary, the annual assessment allocated to Lots owned by Developer or a Builder, if such Lots are not occupied, shall be equal to fifty percent (50%) of the annual assessment allocated to Lots owned and occupied by others.

Failure to act within any time period established in the Declaration shall not affect the rights of the Board to collect assessments as provided herein.

3.5 Calculation of Annual Assessment. Each Owner shall be responsible for and shall pay that portion of the annual assessment allocable to the Owner's respective Lot as determined by the Board. The annual assessment shall equal the estimate of the Common Expenses for the year, plus an amount determined by the Board as adequate to provide a reserve fund for future use by the Association for the maintenance and/or replacement of the Common Property. The Board during any calendar year shall be entitled to increase the annual assessment for that year if it should determine that the estimated or current assessment is insufficient to cover Common Expenses for that year, provided that the Board shall give at least thirty (30) days advance notice thereof to the Owners.

3.6 **Special Assessment (Operating Shortfalls).** In the event that the annual assessment is less than the Common Expenses incurred for said year, the amount of any operating deficit may, at the Board's sole option, be charged to the Owners by means of a special assessment and the same shall be immediately due and payable as provided in Section 3.9.

3.7 **Individual Assessment.** If any portion of the Common Property that the Association is obligated to maintain, repair and/or replace is damaged due to the willful or negligent act or omission of an Owner or Owner's guest or invitee, the Board shall have the right to undertake the necessary maintenance, repair or replacement. The choice between repair and replacement is in the sole discretion of the Board. The cost so incurred by the Board shall be assessed as an individual assessment against all Lots owned by the Owner responsible for the damage. No such assessment may be levied against Lots owned by the Developer without the written consent of Developer.

The Association shall also have the authority, through the Board, to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any provisions of this Declaration, which breach shall require the expenditure of time or money, or both, by the Association for the repair or remedy.

3.8 **Interest.** Delinquent assessments shall bear interest at such interest rates as are from time to time established by the Board (which interest rate shall not exceed the maximum legal interest rate allowed to be charged to an individual under the laws of the State of Indiana). The Board shall have the right to establish a late charge for delinquent payments in addition to interest charges.

3.9 **Creation of Lien and Personal Obligation of Assessments.** Each Owner, by acceptance of a deed for the Lot, whether or not it shall be so expressed in such deed, shall be deemed to have covenanted and agreed to pay to the Association the Assessments. The Assessments, together with interest and costs, and reasonable attorney's fees for collection, shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interests, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment was made. The personal obligation for a delinquent Assessment shall not pass to a successor in title, unless expressly assumed by such successor (although any liens for Assessments established hereunder shall run with the land). If the obligation is so assumed by a successor in title, the successor and the former Owner shall be jointly and severally liable for payment of the amount due and payable.

Each Owner covenants for himself, his heirs, successors and assigns, to pay each Assessment levied by the Association on his Lot within ten (10) days after receipt of an invoice for the same, and further covenants that if said charge shall not be paid within thirty (30) days from the date that said invoice is deposited, postage prepaid in the United States mail, in an envelope addressed to the Owner at the address of the Lot, the amount of such charge shall become a lien upon said Owner's Lot and shall continue to be such

lien, until fully paid. The Association may perfect such lien by recording a notice of lien with the Recorder of Hamilton County, Indiana. The lien shall be prior to all other liens and encumbrances whatsoever, except real estate taxes and assessments, liens of record in favor of the United States of America, the State of Indiana, or other governmental instrumentalities to the extent made superior by applicable law, and all bona fide recorded first mortgages.

- 3.10 Enforcement of Lien.** Any lien established under this Declaration may be enforced by the Association in the same manner and to the same extent (including appointment of a receiver, foreclosure sale and deficiency judgment) and subject to the same procedures as in the case of foreclosure of a real property mortgage. In any enforcement proceeding, the amount that may be recovered by the Association shall include all costs of the proceeding, and, to the extent permitted by law, reasonable attorney's fees. In any foreclosure sale, the Association may purchase the Lot.
- 3.11 Purchaser at Foreclosure Sale.** Any purchaser of a Lot at a foreclosure sale shall automatically become a Member of the Association and shall be subject to all of the provisions of this Declaration. When the purchaser of a Lot acquires title to the Lot as a result of a foreclosure action, if the proceeds are insufficient to pay all delinquent Assessments, the purchaser shall not be solely liable for the share of the Assessments chargeable to the acquired Lot that became due prior to the acquisition of title to that Lot. Instead, any unpaid share of the Assessments that became due and payable prior to the date of purchase shall be deemed to be part of the Assessments collectible from all of the Lots, including that of the purchaser.

ARTICLE 4 - COVENANTS AND RESTRICTIONS

- 4.1 Real Covenants.** The provisions of this Declaration are for the benefit of Developer, Builders and Owners as provided herein, and run with the land and shall be binding on all parties and all persons claiming ownership under them, except as otherwise specifically provided herein.
- 4.2 Residential.** All of the Lots shall be used for private residential purposes exclusively, except that an Owner may conduct business activities within the Lot as long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from the outside; (b) the activity conforms to all zoning requirements for the Property; (c) the activity does not involve regular visitation of the Lot by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the Property; and (d) the activity is consistent with the residential character of the Property and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Property, as may be determined in the sole discretion of the Developer or the Board. This Subsection shall not apply to any activity conducted by Developer or a Builder with respect to its development and sale of the Property or its use of any Lots which it owns within the Property.

4.3 Activity Restrictions. Except for the activities of Developer or a Builder prior to the date on which the Developer or a Builder has sold and conveyed all Lots in The Lakes of Hazel Dell:

- A. No noxious or offensive trade shall be carried on or upon any Lot, the Common Property, or within any improvement situated upon the Property, nor shall anything be done thereon which may or may become an annoyance or nuisance to the neighborhood or the Owners; provided that this shall not apply to the construction of Dwelling Units on the Lots or any construction, maintenance or replacement of facilities on the Common Property.
- B. The maintenance, keeping, boarding or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot, except that this shall not prohibit the keeping of dogs, cats, caged birds or aquarium fish or other domestic pets provided they are not kept, bred, or maintained for commercial purposes, and provided they are kept according to the rules and regulations of the Association. No Owner shall permit or conduct an activity which may violate any applicable law affecting any Lot.
- C. No burning of any trash, accumulation or storage of litter, new or used building materials, or trash of any kind shall be permitted on any Lot or the Common Property.
- D. Except as provided herein, no commercial vehicle, trailer, trucks of more than one ton, motorcycle, camper, camp truck, horse trailer, boat or the like shall be kept or used on the Property unless totally enclosed within an improvement or garage, so as not to be visible from the exterior thereof. No junk vehicle, inoperative or unlicensed motor vehicle, structure of a temporary character, mobile home, tent, shack, barn, or other outbuilding shall be kept or used upon any Lot or the Common Property, nor (except for bona fide emergencies) shall the major repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. Notwithstanding the provisions hereof, Developer or any Builder and their contractors may, for purposes of business use in connection with the development of the Lots or construction of the Dwelling Units, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction.
- E. Trash and garbage containers shall not be permitted to remain in the public view except on days of trash collection.
- F. No signs of any character shall be erected, posted, or displayed upon any Lot, except street and identification signs installed by the Association or the Developer and excepting one (1) temporary real estate sign not to exceed six (6) square feet in area erected upon any Lot which advertises the same upon the market for sale or rent. This restriction shall not apply to Builders who may erect such signs as are authorized by the Developer.

- G. No structure, planting or other material other than driveways or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with an easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction of flow of any drainage channels.
- H. No vegetable garden shall be larger than 300 square feet and must be maintained so as not to be unsightly. No Owner shall be allowed to store more than two cords of firewood on any Lot. Firewood must be neatly stacked and free of unsightly debris, and storage of firewood by owners is not permitted on the Common Property.
- I. No oil drilling, quarrying, or mining operation shall be permitted on any Lot.
- J. No above-ground swimming pools shall be permitted on any Lot of the Common Property.
- K. Swingsets, jungle-gyms, playhouses or similar yard equipment, basketball courts, trampolines or any other recreational facilities may not be placed, installed or maintained on any Lot without prior approval of the Board. Tennis courts shall not be permitted, unless on the Common Property.
- L. Mailboxes shall be of uniform design as specified by the Developer or as approved by the Board. Mailboxes may be located within the signage, entrance way and landscaping easement.
- M.
 - (i) No fence or any portion thereof may be installed on that part of any Lot which is closer to the street than the primary rear wall of the Dwelling Unit on the Lot. The "primary rear wall" shall be determined by lineal feet of wall area at the rear of the Dwelling Unit, and garage walls shall not be included in the calculation of the primary rear wall if the garage extends further to the rear of the Dwelling Unit than does the living area of the Dwelling Unit.
 - (ii) All fences shall be of a type and quality approved by Developer or the Board; provided that any fence enclosing a swimming pool and located entirely within thirty (30) feet of such pool may be of a design and construction as is from time to time required by applicable government authorities for enclosure of swimming pools.
- N.
 - (i) The Association may regulate the location, manner of installation, color and screening of any satellite dish or any television broadcast antenna placed outside a Dwelling Unit (each, a "Reception Device"), as long as such regulation does not
 - (a) unreasonably delay or prevent the installation of an Owner's chosen Reception Device(s),
 - (b) unreasonably increase the cost of the installation, maintenance or

use of an Owner's Reception Device(s), or (c) preclude reception of an acceptable quality broadcast signal.

(ii) If an acceptable quality signal can be received by placing Reception Devices inside a Dwelling Unit without unreasonable delay or unreasonable cost increase, then installation outside a Dwelling Unit is prohibited. If not so prohibited, then Reception Devices may be no larger or installed no higher than is absolutely necessary for reception of an acceptable quality signal. Reception Devices may not encroach upon any Common Property.

(iii) The Association may require an Owner to paint a Reception Device to match the Dwelling Unit with a specific type and color of paint, as long as such paint will not preclude reception of an acceptable quality signal or void a manufacturer's warranty for a Reception Device. The Association may require repainting or replacement if the exterior surface of a Reception Device deteriorates. The Association may require camouflaging of Reception Devices through inexpensive screening or plantings at the Owner's expense if the Reception Device is visible from other Dwelling Units or the Common Property.

(iv) Prior to the installation of a Reception Device, a Unit Owner must notify the Association in writing of the type of Reception Device and proposed location and provide the Association with a copy of any required permit.

- O. There shall be no violation of any rule or regulation for the use of any Common Property which may from time to time be adopted by the Board and promulgated among the members in writing. The Board is hereby authorized to adopt such rules.
- P. The Owner of a Lot upon which a portion of the Common Property is located shall not alter the Common Property and shall not otherwise adversely affect or interfere with the intended use of the Common Property.
- Q. There shall be no violation of any additional standards, rules, regulations or restrictions which may be, from time to time, reasonably imposed on the Owners by the Association in their use and enjoyment of the Lots and the Common Property.

4.4 Right of Association to Remove or Correct Violations. The Association or Developer may, in the interest of the general welfare of the Owners, and after reasonable notice to an Owner, enter upon any Lot within reasonable hours on any day for the purpose of directing Owner to correct any violations or breach or any attempted violation of any of the covenants and restrictions contained in Article 4, or for the purpose of directing an Owner to abate anything herein defined as a prohibited use or nuisance, provided, however, that no such actions shall be taken without a resolution of the Board. Before any improvements constructed may be altered or demolished pursuant to this Article, the Association or Developer must have participated in binding arbitration with such Owner. Such arbitration should be conducted in accordance with the commercial rules of

arbitration of the American Arbitration Association. The arbitration award shall be final and binding, and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Indiana. If the Owner refuses to participate in binding arbitration as provided for herein, then judicial proceedings must be brought against the Owner in order to alter or demolish any constructed improvements. Notwithstanding the foregoing, any signs which are prohibited by Section 4.3 (F) may be removed pursuant to a resolution of the Board and without arbitration or judicial proceedings. All charges incurred by the Association or Developer in correcting a violation hereunder, (including arbitration or court costs and reasonable attorneys' fees) shall constitute a charge against the Lot and a personal obligation of the Owner thereof, and the Association shall have a lien upon the property and Lot for such expenses, and including costs of collection of such lien amount, which lien shall be subordinate to real estate taxes and assessments, liens of record in favor of the United States of America, the State in which the Lot is located, or other governmental instrumentalities to the extent made superior by applicable law, and all bona fide recorded first mortgages, as provided in Section 3.9.

- 4.5 Board Hearing.** In the event of any dispute between Owners regarding the application of this Declaration or any rule or regulation, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party thereof not less than five (5) days in advance of such hearing. The Board shall act as arbitrator and, after hearing such evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such dispute unless the arbitration provided for herein has occurred, or unless the parties have waived the requirement for arbitration.

ARTICLE 5 - COMMON PROPERTY

- 5.1 Rights of Enjoyment in Common Property.** Each Owner shall have a right and a nonexclusive easement for the use and enjoyment of the Common Property. This right and easement shall be appurtenant to, and shall pass with the title to the Lot. Each Owner shall have a perpetual right of ingress and egress across the Common Property to that Owner's Lot, which shall be appurtenant to the ownership of the Lot. These rights and privileges shall be subject, however, to the following:

- A. The right of the Board to levy and collect the Assessments.
- B. The right of the Board to adopt, enforce and amend reasonable rules and regulations pertaining to the use of the Common Property.
- C. The right of the Board to suspend the right of any Owner to use any of the Common Property that is recreational in nature for any infraction of the rules and regulations relating to the Common Property, which period of suspension shall not exceed 60 days per infraction.

- D. The right of the Board to suspend the right of any Owner to use any of the Common Property that is recreational in nature for the nonpayment or delinquency of any Assessments until paid.
- E. All other easements, restrictions, and rights to which the Property is subject, including, but not limited to, any easements granted or reserved pursuant to Article 7.
- F. The right of the Board to convey such Common Property to eliminate any existing setback violation, encroachment or zoning violation created by the original construction of Developer, free, clear and unencumbered from any and all easements and/or licenses granted pursuant to the Declaration.

5.2 **Subordination to Mortgage or Other Lien.** The rights and privileges provided in this Article shall be subordinate to any mortgage or other lien given by the Association for purposes of acquiring, improving or maintaining the Common Property.

5.3 **Maintenance and Management of Common Property.** The Association shall provide for the maintenance, repair, replacement and management of all Common Property. The Association may fulfill this responsibility and any other duties and obligations of the Association under this Declaration by contracting with any professional management company upon such terms and conditions as shall be agreed upon by the Board and the management company.

Until such time as the Developer has sold and conveyed all Lots within The Lakes of Hazel Dell, the design of landscaping and plant, shrub and tree varieties installed on and/or comprising any part of the Common Property shall be maintained as initially installed unless otherwise approved by the Developer. Thereafter, modifications to landscaping design and plant, shrub and tree varieties shall be approved by the Board.

5.4 **Use of Common Property by Developer.** In addition to the rights described in Section 5.1, Developer and its affiliates shall have the right during the period Developer owns any Lot to use the Common Property, free of charge, for promotional, construction, management, maintenance, repair, remodeling, rental and sales purposes.

ARTICLE 6 - LOT MAINTENANCE

6.1 **General Maintenance.** Subsequent to transfer of a Lot to an Owner, the Owner thereof shall keep the Lot well-landscaped and in a good and well-maintained condition. In the event that a portion of the Common Property is included within the boundaries of a Lot, the Owner thereof shall be responsible for the maintenance of such portion of the Common Property to the extent that the Association or Developer does not maintain the same.

6.2 **Maintenance of Common Drives.** All Owners who share a common driveway for ingress and egress to their Lots shall participate in the cost and maintenance, repair or replacement of said common driveway based on their allocable use thereof. An Owner's

allocable use shall be calculated by taking the longest distance within the common driveway which is being used for access by such Owner and dividing that distance by the sum of all the longest distances of every Owner's use of the common driveway. The maintenance, repair or replacement of a common driveway shall be agreed upon by the Owners of said Lots. In the event Owners fail to agree on the manner in which such maintenance, repair or replacement of the common driveway is to be performed, or the amount of each Owner's allocable share thereof, then the same shall be determined by the Board upon application by an interested Owner. The decision of the Board shall be final and non-appealable. No parking shall be permitted on any portion of the common driveway which serves another Lot.

6.3 **Private Sewer Line.** The maintenance, repair or replacement of utility distribution lines and connections or private sewer laterals (which connect a Lot to sewer main) and are located on or exclusively service the Lot shall be the responsibility of the Owner using the line, connections or laterals. If more than one Owner is using a line, connection or lateral and the Owners fail to agree on a formula to determine their share of the cost or in the event the Owners fail to agree on the manner in which such maintenance, repair or replacement shall be done, then the Board shall make such determination upon application by an interested Owner. The decision by the Board shall be final and non-appealable.

6.4 **Storm Water Control Structures.** The Association shall be responsible for the care and maintenance of only those storm water control structures constructed by Developer or at the direction of the Association and located on the Common Property and/or within private drainage easements and/or private storm sewer easements (including detention basin structures, outlet structures, paved channels, headwalls and any and all other storm drainage structures) which are located outside the public right of way and depicted on any record plat of The Lakes of Hazel Dell except for those specifically assumed by governmental authorities. All such care and maintenance shall comply with and conform to any requirements, standards and specifications of such governmental authorities.

ARTICLE 7 - EASEMENTS AND LICENSES

7.1 **Utility and Support Easements.** Developer hereby grants, conveys, and reserves non-exclusive easements over the Property as indicated on any record plat of The Lakes of Hazel Dell for the purpose of (i) the construction, reconstruction, alteration, and maintenance of all facilities necessary to provide utility services, including without limitation, telephone, water, gas, sanitary and storm sewer services to each Lot and the Common Property, and (ii) the cutting, grading and maintaining of slopes, retention walls (including, but not limited to, the retaining wall located on Lot # 70, 71 and 72 for the purpose of tree preservation) and other supports, both for the benefit of each Lot and the Common Property. Developer further reserves the right to grant easements or modify existing easements over any portion of the Property for any of the purposes set forth in this Section 7.1. Upon sale of the last Lot in The Lakes of Hazel Dell by Developer to an Owner, Developer's rights under this Section 7.1 shall automatically pass to the Association.

- 7.2 **Conservation Easement.** Developer hereby grants, conveys, and reserves a non-exclusive easement over the Property as indicated on any record plat of The Lakes of Hazel Dell for the purpose of tree preservation and conservation (the "Easement Area"). During the development of the Property for use as a residential subdivision, Developer agrees to install construction fencing in order to preserve and maintain the trees located in the Easement Area. Developer agrees to install such fencing in a location 15 feet from the boundary of the Easement Area as shown on the any record plat. During the development of the Property, Developer, at its sole cost and expense, shall engage a consultant on a bi-monthly basis to monitor Developer's conservation of trees located within the Easement Area and to prepare reports to be submitted to the authority of the City of Carmel, Indiana having jurisdiction over tree conservation programs. As part of the development of the Property, Developer shall plant two (2) trees on each Lot. Owners must notify the authority of the City of Carmel, Indiana having jurisdiction over tree conservation programs in writing prior to removing any trees located on Lots within the Easement Area.
- 7.3 **Common Property Easement.** Developer hereby grants, conveys, establishes and reserves an exclusive easement for the benefit of the Developer and Association over the Common Property for the purpose of the construction, reconstruction, alteration, maintenance and use thereof by Developer and the Association. Developer further grants, conveys, establishes and reserves a non-exclusive easement over that portion of the Property not defined as the Common Property for the temporary occupation thereof in order to facilitate the exercise of any of the foregoing easements by either Developer or Association.
- 7.4 **Owner License.** Developer hereby grants, conveys and reserves unto each Owner a non-exclusive license over the Common Property designated by Developer, or the Association upon the termination of the Class B membership therein, as defined in Article 2, for the use and enjoyment of the individual Owners and of the Lots, including without limitation, utilities, and sidewalks, roadways and similar amenities, if any.
- 7.5 **Self-Help Easement.** In the event that an Owner should violate any of the provisions of the Declaration, the Association and the Developer are hereby granted a non-exclusive easement over the Lot of the violating Owner so as to permit the Association to occupy the same and to rectify such breach as set forth in Sections 4.4 or 12.6 hereof.
- 7.6 **Prohibition.** No Owner, other than Developer or Builder, shall grant an easement, right of way or license over a Lot, without the prior consent of the Association.
- 7.7 **Easements to Run with the Land.** All easements and rights described in this Declaration shall run with the land, perpetually in full force and effect, and at all times shall insure to the benefit of and be binding on the Developer, the Association, and any Owner, purchaser, mortgagee or other person now or in the future having an interest in any part of the Property.

ARTICLE 8 - ARCHITECTURAL CONTROL

- 8.1 Architectural Control.** No building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition or change (including any change in color) or alteration thereof be made until a detailed set of plans and specifications is submitted to and approved by the Board. Notwithstanding the foregoing, initial construction of Dwelling Units and improvements by a Builder or the Developer shall be under the exclusive control of Developer as provided in Section 8.4, below. All plans and specifications shall be delivered to the Board in such form and shall contain such information as the Board may reasonably require, including but not limited to any or all of the following: a site plan; proposed landscaping; patio and walkway locations; description of materials; location of lighting; architectural plans including cross-sections, floor plans and elevations; evidence of conformity with building codes; the exterior design, color and the location of the proposed improvements in relation to the surrounding improvements and topography of the surrounding Property. Review of the plans and specifications shall include the following considerations: the continued maintenance of The Lakes of Hazel Dell as a residential community of high aesthetic quality; the promotion of the health, safety and welfare of all Owners, the preservation, beautification and maintenance of the Lots, the Common Property, and all structures thereon; the preservation and promotion of environmental quality; and the assurance of adequate water, sewer and drainage facilities and other utilities and services. The Board shall (i) approve the plans and specifications, (ii) disapprove them, or (iii) approve them with conditions or qualifications. The approval of the plans and specifications by the Board shall not constitute a representation or warranty by it as to the quality of the workmanship, materials or architectural or engineering design covered thereunder, or the proposed work's feasibility or compliance with any applicable laws. In the event the Board fails to approve or disapprove such design and location and notify the Owner of its decision within thirty (30) days after plans and specifications have been received by it, approval will not be required and this Article 8 will be deemed to have been fully complied with. Such submission to the Board shall be in person, or by registered or certified mail, with return receipt, directed to the Association manager, or if there is no manager, to its President.
- 8.2 Enforcement.** In the event of a violation of the provisions of this Article 8, the Association shall have the right to enforce this Article by any proceedings authorized in this Declaration, the By-Laws, or by applicable law.
- 8.3 Fees.** The Board may charge reasonable fees for the processing of said plans and specifications and any inspections. Any modifications to be undertaken to the exterior of a Dwelling Unit, Lot or the Common Property shall comply with the guidelines and regulations of the United States Department of Housing and Urban Development for buildings and facilities providing accessibility and usability for physically handicapped people; and shall be undertaken pursuant to a contract, the terms, conditions and specifications of which, shall be approved by the Board. The approved contractor shall provide an adequate performance bond for the benefit of the Association.

Notwithstanding the other provisions herein, including those requiring approval of the Members, the Board is authorized to make reasonable accommodations to any rules, policies, practices or services as may be necessary to afford a handicapped person equal opportunity to use and enjoy his Dwelling Unit and Lot, including the Common Property.

- 8.4 **Approval of Plans by Developer.** Each Builder, prior to initial construction of a Dwelling Unit and/or accessory structures on a Lot, shall deliver its plans and specifications to Developer and secure the Developer's approval of such plans and specifications (as described in Section 8.1, above). Such approval of plans and specifications by the Developer shall be conducted in the same manner and in the same time frame as set forth in Section 8.1, above. The Developer shall have all legal and equitable remedies available under this Declaration to enforce its decision against Builders, Owners, or their successors.
- 8.5 **Handicap Accessibility.** Notwithstanding the other provisions herein, an Owner of any Dwelling Unit and Lot may, at his expense, make such reasonable modifications to the interior and exterior of his Dwelling Unit and Lot and the Common Property as may be necessary to afford the physically handicapped appropriate access thereto. Fees shall be paid at the time the plans and specifications are submitted to the Board for approval.

ARTICLE 9 - ANNEXATION AND ALTERATIONS TO THE PROPERTY

The provisions of this Declaration are imposed upon the Property including the Lots, Dwelling Units, and Common Property located thereon. Developer shall have the right at any time to remove any portion of the Property which has not been conveyed to an Owner from the scope of this Declaration or to subject any Additional Property to the provisions of this Declaration by the execution and recording of a supplement to this Declaration.

The Developer may annex to this Declaration any Additional Property without the consent of the Members of the Association, within seven (7) years after the date this Declaration is filed for record. However, the Developer is not bound to annex any of the Additional Property to this Declaration, and until such time as any of the Additional Property is annexed, the same shall not be subject to the provisions of this Declaration.

Any annexations made pursuant to this Article 9 shall be evidenced by filing an amendment or supplement to this Declaration with the Recorder of Hamilton County, Indiana, which amendment or supplement shall extend this Declaration to such annexed Additional Property. The supplement or amendment to this Declaration may contain additional covenants, conditions, restrictions, easements and liens as the Developer shall deem appropriate for the purpose of completing the development of any Additional Property. Such Additional Property shall enjoy the benefit of all amenities in The Lakes of Hazel Dell.

ARTICLE 10 - INSURANCE

- 10.1 **Maintenance of Liability Insurance.** The Association, as a Common Expense, shall insure itself, the Board, Developer, all Owners and members and their respective families

and other persons residing with them in the Dwelling Unit, their tenants, and all persons lawfully in possession or control of the Lots, against liability for bodily injury, disease, illness or death and for injury to persons or destruction of property occurring upon, in or about, or arising from, the Common Property and the portions of the Lots to be maintained by the Association, such insurance to afford protection with limits of not less than \$500,000.00 with respect to bodily injury, disease, illness or death suffered by any one person and of not less than \$1,000,000.00 with respect to bodily injury, disease, illness or death suffered by more than one person in any one occurrence, and not less than \$500,000.00 with respect to damage to or destruction of property arising out of one accident.

- 10.2 Other Insurance.** The Association shall have a right to maintain officers and Trustees liability insurance and such insurance or extended coverage insurance insuring the Common Property in such amounts, against such perils, for such time periods and under such circumstances as the Association through its Board determines, in their sole discretion, is appropriate and in the best interest of The Lakes of Hazel Dell.
- 10.3 Insurance Limitation.** Except as otherwise provided in Section 10.1, the policies of insurance maintained by the Association pursuant to this Article 10 shall not insure against liability for personal injury or property damage arising out of or relating to the Lots. Each Owner shall be responsible for obtaining insurance with respect to any Lot and improvements thereon and the contents thereof and any personal liability to the extent not covered by insurance provided in this Article 10. All insurance procured by the Association shall have such deductibles as the Board shall, from time to time, determine necessary and appropriate.
- 10.4 Dwelling Unit Insurance.** The Association shall have no responsibility or liability to obtain or maintain any type of insurance upon any Dwelling Unit constructed on Lots and such insurance shall be the sole responsibility of the Owner.
- 10.5 Premiums.** All premiums paid for any insurance procured by the Association hereunder shall be deemed to be a Common Expense.
- 10.6 Insurance Proceeds.** Any and all insurance proceeds received by the Association shall be held by the Association and used for the benefit of the Owners, the Common Property and the Lots as the Board shall, from time to time, determine. No Owner shall have any right in or to the proceeds of any such insurance.
- 10.7 Casualty.** In the event that any portion of the Common Property is damaged or destroyed, the Association shall restore the affected portion of the Common Property to substantially its condition existing immediately prior to such damage or destruction to the extent reasonably practicable. If such damage or destruction is not covered by insurance maintained by the Association or the proceeds are insufficient to fully restore the affected portion of the Common Areas as a result thereof, then the Association shall effect the restoration thereof in such a manner as the Association may determine appropriate in its sole judgment and shall levy a special assessment against each Owner for any deficiency in a proportion to its respective share thereof.

ARTICLE 11 - REAL ESTATE TAXES AND ASSESSMENTS

- 11.1 **Real Estate Taxes.** Each Owner shall be responsible for and shall pay when due all taxes and assessments, general and special, levied or imposed upon his Lot and the improvements located thereon.
- 11.2 **Allocation.** Prior to the time the taxing authorities establish separate tax parcels for each Lot, Developer shall allocate the real estate taxes and assessments upon the Property among and against the Lots and the Common Property in a fair and equitable manner so as to allocate the real estate taxes and assessments charged in common to the various Lots as well as the Common Property within The Lakes of Hazel Dell. The allocation made in accordance with the terms hereof shall be binding upon all Owners and shall be paid by Owners in the same manner as provided in Section 3.9.
- 11.3 **Common Property.** Taxes and assessments, general and special, charged against the Common Property of The Lakes of Hazel Dell shall be paid by the Association when due and shall be deemed a Common Expense.

ARTICLE 12 - MISCELLANEOUS

- 12.1 **Duration.** Except where permanent or perpetual easements or other permanent rights or interests are herein created, the terms and provisions of this Declaration shall run with and bind the Property, and shall inure to the benefit of and be enforceable by the Association or by any of the Lot Owners, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date of recordation of this Declaration, after which the Declaration shall be automatically extended for successive periods of ten (10) years in perpetuity, unless a recorded instrument signed by the Owners of two-thirds (2/3) of the Lots have been recorded, agreeing to terminate the Declaration. Notwithstanding the foregoing, this Declaration may not be terminated without Developer's prior written consent as long as Developer owns any Lot.
- 12.2 **Assignment by Developer.** Developer shall be entitled to assign to any party by a separate recorded instrument, all or a portion of the rights and benefits contained in this Declaration which are reserved to the Developer. In the event of any assignment, such party shall be deemed to be a "Developer" to the extent of the rights and benefits hereunder which are assigned. Any such rights and benefits of the Developer contained herein shall not be assignable or transferable without an express assignment hereof by Developer. Such assignment may transfer rights and benefits exclusively or non-exclusively.
- 12.3 **Amendment.** The Declaration may be amended, from time to time as follows:
- A. **Class B Members:** Developer reserves, for the benefit of Developer, the right and power, and each Owner by acceptance of a deed to a Lot is deemed to and does grant to the Developer a Power of Attorney coupled with an interest, the burden of which interest shall run with the title to the Lot, and shall be irrevocable except by Developer for a period of seven (7) years from the date hereof, to

amend this Declaration without the approval of the Lot Owners, (i) to correct or clarify the legal description of the Property or the Additional Property; (ii) to expand The Lakes of Hazel Dell pursuant to Article 9; (iii) to correct clerical or typographical errors; (iv) to make nominal changes in the Declaration; (v) to clarify Developer's original intent; (vi) to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution, (including the U.S. Department of Housing and Urban Development, the U.S. Veteran's Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar agency); or (vii) to the extent necessary to enable Developer to meet any other reasonable need or requirement including those associated with completion of the development of the Property and the Additional Property and to facilitate the making and marketing of first mortgages upon any of the Lots. Any amendment must be recorded and shall be effective upon recording.

- B. **Lot Owners.** This Declaration may be amended at any time by an instrument executed by persons or entities able to exercise seventy-five percent (75%) of the voting power of all classes of the Association and approved by first mortgage holders representing Lots having at least fifty-one percent (51%) of the voting power and for whom the Association has received written notice of such mortgage; provided, however, that Developer's rights hereunder may not be amended or altered without Developer's prior written consent. Any amendment must be recorded and shall be effective upon recording.

- 12.4 **Personal Liability.** Nothing in this Declaration, the Articles, or By-Laws of the Association, or any rules or regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any Trustee or any officer or employee of the Association acting in their capacity as such, for the maintenance, repair or replacement of any Dwelling Unit or part of the Common Property or give rise to a cause of action against any of them except for damages resulting from their own willful acts or omissions or misconduct, and each person who becomes an Owner or Member hereby releases and discharges all persons now or hereafter serving as an officer, employee and/or Trustee from any liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings against any such person or persons unless such person is covered by insurance and in such event the amount of recovery shall be limited to the amount of insurance.

- 12.5 **Notices.** Any notice required to be given to a Member or Owner under the provisions of this Declaration shall be deemed to have been properly given when mailed, by ordinary mail, postage prepaid, to the Member or Owner at his last known address appearing on the records of the Association at the time of such mailing.

- 12.6 **Enforcement.** Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against (i) any person or persons violating or attempting to violate any covenant or restriction, to restrain and/or to enjoin violation and/or to recover damages, and (ii) any Lot or Lots to enforce any lien created by these covenants; and the failure or forbearance by the Association or any Owner to enforce any covenant or

restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event of a Default, the Association shall have the right to enforce any covenant or restriction by proceedings authorized in this Declaration, the Articles, By-Laws or by applicable law.

- 12.7 **Severability.** Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way effect any other provision hereof, each of which shall remain in full force and effect.
- 12.8 **Conflicts.** In the case of any conflict between this Declaration and either the Articles or By-Laws of the Association, the Declaration shall control.
- 12.9 **Rights of Mortgage Holders.** Any mortgagee of a Lot may pay any taxes or other charges which are in default and which may or have become a charge against the Common Property or any part thereof any may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage upon the lapse of a policy, for such Common Property, and such mortgagee making such payments shall be owed immediate reimbursement therefor from the Association.

The holder, insurer or guarantor of the first mortgage on any Lot shall be entitled to timely written notice of the following:

- A. Any condemnation or casualty loss that affects either a material portion of The Lakes of Hazel Dell or the Lot securing its mortgage.
- B. Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Lot on which it holds the mortgage.
- C. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- D. Any proposed action that requires the consent of a specified percentage of mortgage holders.
- E. Any proposed action that requires the consent of a specified percentage of mortgage holders.

A mortgage holder, insurer or guarantor shall send a written request to the Association, stating both its name and address and the Lot number or address upon which it holds a mortgage, in order to obtain the right to receive the foregoing notices.

12.10 **Condemnation.**

- A. In the event any Lot or any portion thereof, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the net proceeds of any award or settlement shall be the property of the Owner and the holder of the first mortgage, to the extent of their respective interests. Each Owner shall give the holder of a first

mortgage on the Owner's Lot timely written notice of such proceeding or proposed acquisition.

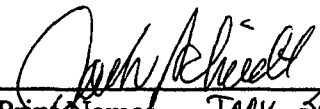
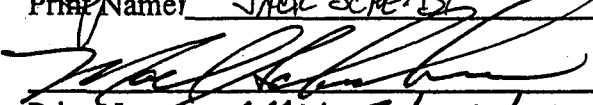
- B. In the event any Common Property or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or otherwise sought to be acquired by a condemning authority, the proceeds of any award or settlement shall be distributed to the Association for the common benefit of the Association, the Owners and their mortgagees, as their interests appear.


IN WITNESS WHEREOF, Developer has executed this instrument at the time and place set forth above.

Signed and acknowledged
in the presence of:


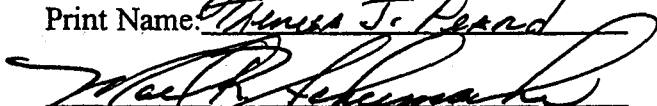
ZARING HOMES OF INDIANA, L.L.C.

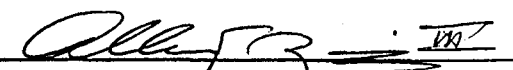
By: ZARING HOMES, INC., Member


Print Name: JACK SCHREIDT

Print Name: MARK SCHUMACHER


Name: Peter A. Hils
Print Name: Peter A. Hils
Title: Market President

FIRST CINCINNATI LAND LLC


Print Name: Thomas J. Peard

Print Name: MARK SCHUMACHER

By: 
Print Name: ZARING
Title: Member-Manager

STATE OF Indiana)
) SS:
COUNTY OF Marion)

The foregoing instrument was acknowledged before me this 27th day of July, 1999 by _____, the _____ of ZARING HOMES, INC., a member of **ZARING HOMES OF INDIANA, L.L.C.**, an Indiana limited liability company, on behalf of such limited liability company.

Vivian S. Shio
Notary Public

STATE OF Ohio)
) SS:
COUNTY OF Hamilton)

The foregoing instrument was acknowledged before me this 26th day of July, 1999 by Allen G. Zaring III, the Member-Manager of **FIRST CINCINNATI LAND LLC**, an Ohio limited liability company, on behalf of such limited liability company.

Theresa J. Peard
Notary Public

637513.05



THERESA J. PEARD
Notary Public, State of Ohio
My Commission Expires Sept. 13, 2000

GUIDELINES PERTAINING TO SOLAR ENERGY SYSTEMS

Solar Systems

The Lakes of Hazel Dell Board of Directors has adopted the following policies and guidelines applicable to the installation of residential solar power systems:

- A. For the purposes of these guidelines, the term “solar energy system” shall mean a solar photovoltaic device whose primary purposes is to use solar energy to produce electricity.
- B. All solar energy systems must be approved in writing by the Board prior to commencement of any installation activities. The owner must also obtain all necessary city/county permits to the extent such permits are required. Homeowners are urged to check with a contractor, engineer, or other professional to determine whether installation may impact their roof warranty or other aspects of their structure. Approval of an owner’s installation is not a representation or warranty by the Board that the system chosen by an owner is safe or is compatible with the owner’s roof. An owner assumes all risks associated with installation of a solar energy system.
- C. Solar energy systems may only be installed in locations approved by the Board. Unless otherwise approved by the Board, the system may not be installed in a location other than (i) the roof of the dwelling of the owner installing the system, or (ii) completely enclosed within a fenced yard or patio owned and maintained by the owner of the Lot.
- D. Subject to criteria set forth herein and applied by the Board, owners may install roof-mounted solar panels or solar shingles. Surface panels (i.e. mounted to the walls/siding or the ground) are discouraged and will not generally be approved unless the same can be installed in such a way that they are not visible from the street or any neighboring Lot.
- E. Roof-mounted panel designs and solar shingles will be approved only on the non-street-facing sides of the roofs.
- F. Roof-mounted solar panels and solar shingles must conform to existing roofing geometry, must be generally flush with the roof, and must be installed at the same angle and slope of the roof. The top edge of the panels may not extend above the roof peak and must be located entirely within a boundary defined by the roof eaves and peak. The panel distance above the existing roof surfaces must be minimized as much as possible.
- G. Solar panels and shingles must have sufficient glare resistance as to not cause any reflection or a nuisance to other owners. All solar panels and shingles must have a textured or matte finish.
- H. In no event may solar panels or solar shingles extend beyond the roof line.

- I. Any exposed electrical conduit must be colored (e.g. power coated) to be color-matched to the roof. Electrical connections must be hidden to the extent possible and placed inconspicuously when viewed from all angles.
- J. The frame, support bracket, or visible piping or wiring must be a silver, bronze, or black tone commonly available in the marketplace.
- K. Surface panels or other systems mounted to the ground or building surfaces must be fully enclosed so that the system is not visible from the street(s) or surrounding properties. Required visual screening for surface panels or other systems installed on a Lot may include, but are not limited to:
 - i. Shrubbery, trees or other noninvasive plant species; or
 - ii. Decorative fencing that meets the requirements of any local ordinance, the Declaration, and Association architectural guidelines applicable to fences.
- L. If a system is installed within a fenced yard or patio owned by the owner, no portion of the system may protrude beyond the top of the fence line.
- M. Depending on the location of the Lot and the intended style and location of solar systems to be installed, the Board may require additional screening to ensure minimal visibility from the streets and/or nearby Lots.
- N. The system must be professionally installed by a licensed solar contractor. “Homemade” devices will not be approved.
- O. All equipment associated with the solar energy system must be properly maintained in a neat and attractive condition as determined by the Board.
- P. The owner’s application must include, at a minimum, the following:
 - i. A “to scale” diagram prepared by the contractor installing the system showing where the system will be installed.
 - ii. Photos of the roof area on which the system will be installed.
 - iii. Material to be used, a manufacturer’s description of the system, pictures of the system, and colors of the system.
 - iv. Any other information the Board may require in connection with the request.
- Q. At its discretion, the Board may, from time to time, apply other criteria for installation of solar energy systems based upon Lot location, harmony of design, visibility to other homes, suitability of materials and contractors, workmanship, and effect on property values. This means requests will be considered individually. What is approved for one Lot may not be approved for another if the Board, in good faith, believes those considerations and circumstances are substantially different. In general, however, the same guidelines will apply to all Lots.

- R. Other Alternative Energy Systems. No other alternative energy system, including, but not limited to windmills, wind turbines, geothermal systems, and other alternative sources of energy may be installed unless approved, in writing, by the Board. Such alternative energy systems are subject to the same application process as set forth herein for solar energy systems. The Board may, at its discretion, impose specific guidelines regarding the installation of alternative energy systems, including, but not limited to regulations as to size, style, type, and location. Additionally, the Board may, at its discretion, refuse to permit any installation of other such alternative energy systems.
- S. Enforcement. Any solar energy system installed in violation of these guidelines and/or without written approval from the Board may be removed by the Association. The Association may enforce these guidelines by any means available at law or in equity, and in the same manner as enforcement of the Declaration. The Association shall have the right to recover any costs incurred in enforcing these guidelines, including expenses, court costs and attorneys' fees.

Owner's Right to Petition

- A. Pursuant to Indiana Code 32-25.5-3.5, an owner may petition to other members of the Association for permission to install a solar energy system on his or her Lot if his or her request is denied. An owner who petitions other members must provide the other members with information regarding the following:
- A. The site plan of the solar energy system to be installed, including:
 - i. The property boundaries;
 - ii. A description of the dwelling;
 - iii. The color of the solar energy system; and
 - iv. Any screening to be used, if the solar energy system is to be installed in a location other than on the roof of the dwelling.
 - B. The vendor and installer of the solar energy system.
 - C. The plans and specifications for the solar energy system, if requested by the other Association members.
- B. An owner who petitions other members must obtain signed consents from owners representing no less than sixty-five percent (65%) of the Lots. The owner must submit copies of the consents to the Board along with a copy of all information submitted to the members. The Board will then permit installation.

- C. Notwithstanding consents obtained from the members, the Board may deny an owner's request, or may require the removal of a previously-installed solar energy system, for any of the following reasons:
- A. A court finds that the solar energy system threatens public health or safety or violates a law.
 - B. The system is to be installed on property owned or maintained by the Association.
 - C. The system is to be installed in a location other than:
 - i. The roof of (1) the dwelling of the owner installing the solar energy system; or (2) another structure approved by the Association; or
 - ii. A fenced yard or patio owned and maintained by the owner.
 - D. The system will be mounted on the roof of the dwelling, and:
 - i. Extends above or beyond the roof of the dwelling by more than six (6) inches;
 - ii. Does not conform to the slope of the roof and has a top edge that is not parallel to the roof line; or
 - iii. Has a frame, support bracket, or visible piping or wiring that is not in a silver, bronze, or black tone commonly available in the marketplace.
 - E. The system will be installed in a fenced yard or patio rather than on the roof of a dwelling and is taller than the fence line.
 - F. The system will be installed in a manner that voids material warranties.
 - G. The owner installs the system in a manner that differs significantly from the manner of installation presented to the members.