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AMENDED AND RESTATED

DECLARATION OF COVENANTS AND RESTRICTIONS

SADDLE CREEK

CARMEL, INDIANA

Recorded _____, 1997

Instrument Number _____
Office of the Recorder of
Hamilton County, Indiana

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Exhibit B	Legal Description of Additional Tract attached
Exhibit C	Site Plan attached

AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF SADDLE CREEK
CARMEL, INDIANA

This Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana (the "Declaration"), is made as of the — day of May, 1997, by Saddle Creek Development Company, Inc., an Indiana corporation (the "Declarant"),

W I T N E S S E T H:

WHEREAS, the Declarant is the fee simple owner of at least seventy-five percent (75%) of the platted lots on the parcels of real estate located in Hamilton County, Indiana, which are more particularly described in Exhibit "A", attached hereto and hereby incorporated herein by reference (hereinafter referred to, collectively, as the "Original Tract"); and

WHEREAS, Declarant has the right and the option to acquire the parcels of real estate in Hamilton County, Indiana which are more particularly described in Exhibit "B" attached and hereby incorporated herein by reference (hereinafter referred to as the "Additional Tract"); and

Whereas, Declarant reserve the right, but not the obligation, from time to time, to acquire Additional Tract or tracts of land contiguous or proximal to the Original and/or the Additional Tract prior to the applicable date, whereupon such after acquired tract(s) shall be made subject to the terms of this Declaration as hereinafter provided;

WHEREAS, Declarant intends to create on the Original Tract [and may in the future desire to create on such portions (or all) of the Additional Tract as may be made subject to the terms of this Declaration, as hereinafter provided] a residential community with public streets, private open spaces and landscaped areas, including lakes and ponds, and which community may include certain recreational facilities and amenities, for the benefit of such residential community, to be known as, SADDLE CREEK; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community and the common areas therein contained, and, to this end, Declarant desires to subject the Original Tract together with such portions (or all) of the Additional Tract as may hereafter be made subject to the terms of this Declaration, as hereinafter provided) to certain rights, privileges, covenants, restrictions, easements, charges, assessments, liens, each and all to the extent herein provided, for the benefit of the Original Tract [together with such portions (or all) of the Additional Tract as may hereafter be made subject to the terms of this Declaration as hereinafter provided] and each owner of all or part thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the powers

of owning, maintaining and administering any common areas located on the Real Estate (hereinafter defined), administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder and promoting the health, safety and welfare of the owners of the Real estate, and parts thereof; and

WHEREAS, Declarant has caused, or will cause, to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name "Saddle Creek Homeowners Association, Inc.", or similar name, as such agency for the purpose of exercising such functions;

WHEREAS, in furtherance of the above, Declarant executed the Declaration of Covenants and Restrictions, Saddle Creek, Carmel, Indiana on October 11, 1996 (the "Original Declaration"), which Original Declaration was recorded on October 17, 1996 in the Office of the Recorder of Hamilton County, Indiana as Instrument Number 96096444059.

WHEREAS, Declarant desires to amend and restate the Original Declaration pursuant to this Declaration.

NOW, THEREFORE, Declarant hereby declares that the Real Estate is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Real Estate, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Real Estate as a whole and of each the Lots situated therein. This Declaration shall supersede and replace in its entirety the Original Declaration, which Original Declaration is hereby terminated and of no further force or effect.

ARTICLE I Definitions

Section 1. The following words and terms, when used herein or in any supplement or amendment hereto, unless the context clearly requires otherwise, shall have the following meanings:

- (a) "Act" shall mean and refer to the Indiana Not-for-profit Corporation Act of 1971, as amended;
- (b) "Applicable Date" shall mean and refer to the date determined pursuant to Article IV, Section 2 (b) of this Declaration;
- (c) "Approvals" shall mean and refer to approvals, determinations, permissions, or consents required herein and shall be deemed given if they are given in writing, signed with respect to the Declarant or the Corporation, by the President or vice-President thereof, and with respect to the Committee, by two members thereof;

- (d) "Articles" shall mean and refer to the Articles of Incorporation of the Corporation, as the same may be amended from time to time;
- (e) "Board" or "Board of Directors" shall mean and refer to the governing body of the Corporation elected, selected or appointed as provided for in the Articles, By-Laws and this Declaration;
- (f) "By-Laws" shall mean and refer to the Code. of By-Laws of the Corporation, as the same may be amended from time to time;
- (g) "Committee" shall mean and refer to the "Saddle Creek Building Control Committee", the same being the committee or entity established pursuant to Article VIII, Section 1 of this Declaration for the purposes herein stated;
- (h) "Common Areas" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate, or any part thereof, which are not dedicated to the public; and which are not identified as lots on any such plat (such as public streets), whether such plat is heretofore or hereafter recorded, (ii) to the extent hereinafter established, such portions of the Real Estate as are herein declared to be Common Areas even though located on or constituting part of one or more such lots shown on any such plat, and (iii) to the extent hereinafter established, such improvements located, installed or established in, to, under, across or through-the Real Estate as are herein declared to be Common Areas whether located, installed or established entirely or partially on Lots (as herein defined) or portions of the Real Estate which are not Lots, or both;
- (i) "Common Expenses" shall mean and refer to expenses of administration of the Corporation, and expenses for the upkeep, liability insurance, maintenance, repair and replacement of the Common Areas, and all sums, costs and expenses declared by this Declaration to be Common Expenses;
- (j) "Corporation" shall mean and refer to Saddle Creek Homeowners Association, Inc., an Indiana not-for-profit corporation which Declarant has caused, or will cause, to be incorporated under said name or similar name, its successors and assigns;
- (k) "Declarant" shall mean and refer to Saddle Creek Development Company, an Indiana corporation, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to, any mortgages acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant;

- (l) "Drainage System" shall mean and refer to the open drainage ditches, the subsurface drainage tiles, pipes and structures, the dry and wet retention and/or detention areas, and the other structures, fixtures, properties, equipment and facilities located on the Real Estate and designed for the purpose of controlling, retaining or expediting the drainage of surface and subsurface waters from, over and across the Development, including but not limited to those shown or referred to on a Plat, all or part of which may be established as legal drains subject to the jurisdiction of the Hamilton County Drainage Board, its successors or assigns;
- (m) "Dwelling Units" shall mean and refer to any building, structure or portion thereof situated on the Real Estate designed and intended for use and occupancy as a residence by one (1) single family;
- (n) "Lot" shall mean and refer to any and each portion of the Real Estate (excluding any part of the Common Areas) designed and intended for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit), as designated by Declarant by its deed of the same to another Person. A Lot will not necessarily be the same as any individually numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate or any part thereof. For purposes of this Declaration, a "Lot" may be (i) any individually numbered parcel of land identified as a lot on such subdivision plat, (ii) part of such a numbered parcel of land, (iii) such a numbered parcel of land combined with part or all of another such numbered parcel of land, or (iv) parts or all of two (2) or more of such numbered parcels of land combined. The determination of what portion of the Real Estate constitutes a "Lot" for purposes of this Declaration shall be made by reference to, and shall mean, each tract of land conveyed by Declarant to another Person for use as a building site for, or developed and improved for use as, a Dwelling Unit (which shall be deemed to include any other buildings or improvements appurtenant to such Dwelling Unit). Notwithstanding the foregoing, if after the initial conveyance of a portion of the Real Estate by Declarant to another Person it is agreed between the Declarant and such Person to enlarge or reduce or otherwise change the portion of the Real Estate so originally conveyed to such Person as a "Lot", then the determination of what portion of the Real Estate constitutes such a "lot" for purposes of this Declaration shall be made by reference to, and shall mean, such "Lot" initially so conveyed by Declarant, as the same has been adjusted or changed at any time by conveyances by and between Declarant and such Person. Any deed or other instrument of conveyance so adjusting or changing the description of a "Lot" shall state on its face that it is made for such purposes. Any part of a "Lot" reconveyed to Declarant shall, upon such reconveyance, lose its character as part of a "Lot" and thereafter be conveyed by Declarant as part of another "Lot". The foregoing procedures may be used to correct errors in descriptions, to adjust boundary lines of "Lots" or for any other reason as determined by Declarant;

- (o) "Mortgagee" shall mean and refer to the holder of a recorded first mortgage lien on a Lot or Dwelling Unit;
- (p) "Owner" shall mean and refer to (i) the Declarant, as to each Lot owned by it and as to each individually numbered parcel of land shown upon , and identified as a lot an any recorded subdivision plat of the Real Estate (or any part thereof) of which it is the owner (either as to the entire numbered parcel or any part thereof) which is not a Lot, and (ii) the recorded owner, whether one or more Persons, of the fee simple title to any Lot, provided, however, that Owner shall not include or mean or refer to a mortgagee or-tenant unless and until such mortgagee or tenant has acquired title to any Lot, but upon so acquiring title to any Lot a mortgagee or tenant shall be an Owner;
- (q) "Person" shall mean and refer to an individual, firm, corporation, partnership, Association, trust, or other legal entity, or any combination thereof;
- (r) "Real Estate" shall mean and refer to the Original Tract, additional tract and after acquired tract as have, from time to time, been subjected to, and are, at anytime subject to this declaration;
- (s) "Restrictions" shall mean and refer to the agreements, conditions, covenants, restrictions, easements, assessments, charges, liens and all other provisions set forth in this Declaration, as the same may be amended from time to time; and
- (t) "Site Plan" shall mean and refer to the preliminary plan reflecting Declarant's proposed development of the Original Tract and the Additional Tract (if the entire Additional Tract is subjected to this Declaration), a copy of which is attached hereto as Exhibit "C" and hereby incorporated herein by reference.

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

ARTICLE II

Real Estate Subject To This Declaration; Declarant's Right To Subject Additional Tract To This Declaration

Section 1. Declaration. Declarant hereby expressly declares that the Real Estate shall be held, transferred, sold, conveyed and occupied subject to all the Restrictions. As of the date of execution of this Declaration, the Real Estate consists solely of the Original Tract. The Owner of any Lot at any time shall be subject to the Restrictions and this Declaration, (i) by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant

or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to all Restrictions contained in this Declaration. By acceptance of such deed, execution of such contract or undertaking such occupancy, each Owner and all other Persons acknowledge the rights and powers of Declarant, the Committee and the Corporation with respect to or under this Declaration, and, for himself, his heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant, the Committee and the Corporation, and the Owners and subsequent Owners of each of the Lots affected by this Declaration, to keep, observe, perform and comply with the terms and provisions of this Declaration.

Section 2. Declarant's Right of Expansion. Declarant shall have, and hereby expressly reserves, the right, but not the obligation, at any time and from time to time, on or before the applicable date to add to the real estate and subject to this Declaration all or any part of the Additional Tract or after acquired tract. Any portion of the Additional Tract or after acquired tract shall be added to the Real Estate, and therefore and thereby becomes a part of the Real Estate and subject in all respects to this Declaration, when Declarant places of record in Hamilton County, Indiana an instrument so declaring the same to be a part of the Real Estate, which declaration may be made a part of the subdivision plat of any portion of the Additional Tract or after acquired tract, or by an amendment or supplement to this Declaration, or by the deed conveying any portion of the Additional Tract to a Person other than Declarant, or otherwise. Upon the recording of any such instrument on or before the Applicable Date, the real estate described therein shall, for all purposes thereafter be deemed a part of the Real Estate and the Owners of any Lots within such real estate shall be deemed for all purposes to have and be subject to all the rights, duties, privileges and obligations of Owners of Lots within the Real Estate. No single exercise of Declarant's right and option to add to and expand the Real Estate, as described in this Section 2, as to any part or parts of the Additional Tract or after acquired tract shall preclude Declarant from thereafter from time to time further expanding and adding to the Real Estate, to include other portions of the Additional Tract, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portion of the Additional Tract or after acquired tract so long as such expansion is accomplished on or before the Applicable Date. Such expansion of the Real Estate is entirely at the discretion of Declarant and nothing contained in this Declaration or otherwise shall require Declarant to expand the Real Estate beyond the Original Tract, or any other portions of the Additional Tract or after acquired tract which Declarant may voluntarily and in its sole discretion from time to time subject to this Declaration.

ARTICLE III

Common Areas: Obligations of Declarant as to Common Areas

Section 1. The Common Areas. The Common Areas shall consist of the portions of the Real Estate, and improvements thereon or thereto, as defined in Article I, Section 1(h) of this Declaration. Without limiting the generality of the foregoing, the Common Areas shall include the following portions of the Original Tract and the Additional Tract, and improvements thereon or thereto, to the extent the same have been subjected to this Declaration and are part of the Real Estate:

- (a) The ten (10) storm water detention ponds or lakes shown on the Site Plan, including all land areas surrounding the same which are shown upon the Site Plan as, and may be shown on subdivision plats of the Real Estate as "Common Areas" or "Lake Maintenance Easement";
- (b) Landscaping to be installed in any islands, esplanades, cul-de-sac or cul-de-loop areas within the right-of-way of any streets within the Real Estate, or in any greenway or elsewhere within the real estate; and
- (c) Entry way walls, fountains, works of art, sculptures, fences or other structures, sidewalks and pedestrian underpasses installed in pedestrian walkway easements or under a county right-of-way, subdivision identification signs, street signs or directories, landscape irrigation systems, decent lighting systems and other similar items to be installed in "Landscaping Easements", "Internal Sidewalk System Easements", "Lake Maintenance Easements" or "Pedestrian Parkway Easements" noted or to be noted on subdivision plats of the Real Estate, or at or in proximity to the street entrances to the Real Estate from 136th and 141st streets; and
- (d) The following improvements (hereinafter referred to, collectively, as the "Recreational Facilities") to be installed in the "Common Area" located as shown on the Site Plan:
 - X (i) One (1) or more tennis courts,
 - (ii) A swimming pool, and
 - (iii) An off-street vehicle parking area.

Section 2. Agreement to Construct and Convey Common Areas. Declarant will, prior to the Applicable Date, construct or provide, for the Common Areas described herein to the extent the same are due to be located on portions of the Original Tract or the Additional Tract which are subjected to this Declaration and are part of the Real Estate. Upon final construction or provision of such Common Areas, Declarant covenants to convey all of its right, title and interest in and to said Common Areas to the Corporation and all such right, title and interest in and to said items (whether owned in fee, by leasehold, by contract or in the nature of an easement or license) shall then be the property of the corporation, whether or not the same may be located entirely or partially on any one or more of the lots. The corporation covenants to accept such common area subject to the terms and conditions of this Declaration.

ARTICLE IV

Corporation: Membership; Voting; Functions

Section 1. Membership in Corporation. Declarant and each Owner of a Lot shall, automatically upon becoming an Owner, be and become a member of the Corporation and shall

remain a member until such time as his ownership of a Lot ceases, but membership shall terminate when such Owner ceases to be an Owner, and will be transferred to the new Owner of his Lot; provided, however, that any Person who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a member until and unless he forecloses upon his security, at which time he shall automatically be and become an Owner and a member of the Corporation.

Section 2. Voting Rights. The Corporation shall have the following classes of membership, with the following voting rights:

- (a) Class A. Class A members shall all be Owners except Class B members. Each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner with respect to each matter submitted to a vote of members upon which the Class A members are entitled to vote. When more than (1) Person constitutes the Owner of a particular Lot, all such Persons shall be members of the Corporation, but all of such Persons shall have only (1) vote for such Lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.
- (b) Class B. Class B members shall be Declarant, all successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Corporation, and Pulte Homes of Indiana. Each Class B member shall be entitled to five (5) votes for each Lot of which it is the Owner and five (5) votes for each individually numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate, or any part thereof, of which it is the Owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined in this Declaration, on all matters requiring a vote of the members of the Corporation. The Class B membership shall cease and terminate upon the first to occur of (i) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Corporation, (ii) the date Declarant no longer owns any Lots nor any portion of any individually numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate, or any part thereof, or (iii) December 31, 2005 (the "Applicable Date"). After the Applicable Date, Class B memberships shall be converted to Class A memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot owned and for each individually numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the Real Estate, or any part thereof, of which it is then the owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined herein.
- (c) Special. Until the Applicable Date, there shall be three (3) additional Special members of the Corporation, being the persons from time to time appointed by

Declarant to serve on the "Initial Board" pursuant to Section 2 of Article V hereof. Persons who are special members shall not be deemed or considered members of the Corporation nor Owners of Lots for any purpose other than to qualify to act as members of the Initial Board. Special members shall have no voting rights on any matters submitted to a vote of the members [unless such Special member is also a Class A member, in which event his voting rights shall be governed by subsection (a) of this Section 2].

Section 3. Functions. The Corporation has been (or will be) formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Areas as and to the extent provided herein, to pay taxes assessed against and payable with respect to the Common Areas, to pay any other necessary expenses and costs in connection with the Common Areas, and to perform such other functions as may be designated for it to perform under this Declaration or under any recorded subdivision plat of the Real Estate, whether heretofore or hereafter recorded.

ARTICLE V Board of Directors

Section 1. Management. The business and affairs of the Corporation shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an Owner, including a person appointed by Declarant as provided in Section 2 of this Article V.

Section 2. Initial Board of Directors. The initial Board of Directors shall be composed of the persons designated or to be designated in the Articles, to-wit: John J. Kennelly, Kathleen M. Kennelly, Patrick J. Beirne (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration, the Articles, the By-Laws or the Act (a) the Initial Board shall hold office until the first meeting of the members of the Corporation occurring on or after the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to such first meeting occurring on or after the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type of Juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which members of the Corporation are entitled to vote under the Declaration, the Articles, the By-Laws, the Act or otherwise. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each Person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a Special member

of the Corporation and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purposes. No such Person serving on the Initial Board shall be deemed or considered a member of the Corporation nor an Owner of a Lot for any purpose (unless he is actually the Owner of a Lot and thereby a member of the Corporation).

Section 3. Additional Qualifications. Where an Owner consists of more than one Person or is a partnership, corporation, trust or other legal entity, then one of the Persons constituting the multiple Owner, or a partner or an officer or trustee, shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one Person at a time.

Section 4. Term of Office and Vacancy. Subject to the provisions of Section 2 of this Article V, the entire membership of the Board of Directors shall be elected at each annual meeting of the Corporation. The Initial Board shall be deemed to be elected and reelected as the Board of Directors at each annual meeting until the first meeting of the members occurring on or after the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of one(1) year. Each Director shall hold office throughout the term of his election and until his successor is elected and qualified. Subject to the provisions of Section 2 of this Article V as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with Section 5 of this Article V. The Director so filling a vacancy shall serve until the next annual meeting of the members and-until his successor is elected and qualified.

Section 5. Removal of Directors. A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible Owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the Owners and until his successor is duly elected and qualified.

Section 6. Duties of the Board of Directors. The Board of Directors shall be the governing body of the Corporation representing all of the Owners and being responsible for the functions and duties of the Corporation, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common Areas (unless the same are otherwise and responsibility or duty of Owners), and the collection and disbursement of the Common Expenses. Before or after the Applicable Date, the Board may, on behalf of the Corporation, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- (a) protection, surveillance and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of Owners of Lots; provided, however, that this

duty shall not include or be deemed or interpreted as a requirement that the Corporation, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;

- (b) procuring of utilities used in connection with the Lots, Dwelling Units and Common Areas (to the extent the same are not provided and billed directly to Owners of Lots and Dwelling Units by utility companies) and snow removal from the Street; streets within the Real Estate (if the appropriate governmental authority exercising Jurisdiction over such streets is unable or unwilling to provide such snow removal);
- (c) landscaping, painting, decorating, furnishing, and maintenance and upkeep of, the Common Areas;
- (d) assessment and collection from the Owners of the Owners' respective shares in the Common Expenses;
- (e) preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of the annual or special meeting at which the same is to be acted upon is mailed or delivered;
- (f) preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; if possible, such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
- (g) keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Corporation, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an Owner at any time during normal business hours;
- (h) procuring and maintaining for the benefit of the Corporation, the Owners, any Managing Agent and the Board of insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;
- (i) paying taxes and assessments levied and assessed against, and payable with respect to, the Common Areas and paying any other necessary expenses and costs in connection with the Common Areas; and
- (j) procuring weekly trash removal services for the benefit of the Owners for which services the Owners may be billed directly; and

- (k) all duties and obligations imposed upon the Corporation or the Board under this Declaration, the Articles, the By Laws, the Act, or any recorded subdivision plat of the Real Estate whether heretofore or hereafter recorded.

Section 7. Powers of the Board of Directors. The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

- (a) to employ a Managing Agent to assist the Board in performing its duties;
- (b) to purchase, lease or otherwise obtain for the Corporation, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (c) to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Corporation;
- (d) to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas and to perform all other maintenance, upkeep, repair and replacement duties of the Corporation and the Board;
- (e) to include the costs of performing all of its functions, duties and obligations as Common Expenses and to pay all of such costs therefrom;
- (f) to open and maintain a bank account or accounts in the name of the Corporation;
- (g) to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Areas (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners; and
- (h) to grant to such public or private companies, entities or bodies as the Board shall approve, such easements as maybe necessary to provide the Lots, Dwelling Units and Common Areas with facilities for utility and similar services, including but not limited to cable television facilities and service; provided that such easements are located within or are co-extensive with any one or more easements or Common Areas shown upon, and identified as such on, or provided for in, any subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded.

Section 8. Limitation on Board Action. After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$2,500.00 without obtaining the prior approval of a majority of the cumulative votes of the Owners, except that in the following cases such approval shall not be necessary:

- (a) contracts for replacing or restoring portions of the Common Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received or for which the insurance carrier has acknowledged coverage;
- (b) proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and
- (c) expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the Owners.

Section 9. Compensation. No Director shall receive any compensation for his services as such, except to such extent as maybe expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

Section 10. Non-Liability of Directors and Officers. The Directors and officers of the Corporation shall not be liable to the Owners or any other Persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as directors and officers, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless and defend each of the Directors and officers against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith. It is intended that the Directors and officers shall have no personal liability with respect to any contract made by them on behalf of the Corporation.

Section 11. Additional Indemnity of Directors and Officers. The Corporation shall indemnify, hold harmless and defend any Person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director or officer of the Corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director or officer is liable for gross negligence or misconduct in the performance of his duties. The Corporation shall also reimburse to any such Director or officer the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director or officer was not guilty of gross negligence or misconduct. In making such findings and

notwithstanding the adjudication in any action, suit or proceeding against a Director or officer, no Director or officer shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director or officer relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent (if any) or any other officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director or officer had actual knowledge of the falsity or incorrectness thereof; nor shall a Director or officer be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings-of the Board of Directors.

Section 12. Bond. The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Corporation, and any other officers as the Board deems necessary, to provide surety bonds, indemnifying the Corporation against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

Section 13. Initial Management. Notwithstanding anything to the contrary contained in this Declaration, Declarant shall have, and Declarant hereby reserves to itself, the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Areas, and to perform all the functions of the Corporation, until the Applicable Date. Declarant may, at its option, engage the services of the Managing Agent affiliated with it to perform such functions and, in either case, Declarant or such Managing Agent shall be entitled to reasonable compensation for its services.

ARTICLE VI

Real Estate Taxes: Utilities

Section 1. Real Estate Taxes. Real estate taxes on each Lot, and on any Dwelling Unit or other improvements on each Lot, are to be separately assessed and taxed to each Lot and shall be paid by the Owner of such Lot. Any real estate taxes or other assessments against the Common Areas shall be paid by the Corporation and treated as a Common Expense.

Section 2. Utilities. Each Owner shall pay for his own utilities which, to the extent possible shall be separately metered to each Lot and Dwelling Unit. Utilities which are not separately metered to an Owner's Lot or Dwelling Unit shall be treated as and paid as part of the Common Expense, unless otherwise determined by the Corporation.

ARTICLE VII

Maintenance, Repairs and Replacements

Section 1. By Owners. Each Owner shall, at his own expense, be responsible for, and shall promptly perform as the need therefore arises, all maintenance, repairs, decoration and

replacement of his own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot, except for such portions thereof as may, in accordance with the terms of this Declaration, be designated as apart of the Common Areas for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Common Areas. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances, and all other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 2. By the Corporation. Maintenance, repairs, replacements and upkeep of the Common Areas [including, but not limited to, the storm drainage system for the Real Estate (other than portions thereof established as legal drains subject to the jurisdiction of the Hamilton County Drainage Board and maintained by it)] shall (except to the extent provided herein as the obligation of Owners) be furnished by the Corporation, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses. In addition to the maintenance of the Common Areas as herein otherwise defined, the Corporation, as part of its duties, and as a part of the Common Expenses, shall provide for maintenance for the following items, which shall be considered part of the Common Areas for purposes of maintenance only:

- (a) those portions of the Real Estate, whether or not said portions are part of any of the Lots, which are located outside any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate, but only to the extent that the same are not maintained by or the responsibility of a public authority; provided, however, that the Corporation shall have no obligation to maintain any public street, road or highway located within any public right-of-way or abutting the Real Estate. For purposes of this subparagraph (a), "outside any perimeter fencing" means the areas between such fencing and the nearest property line of the Real Estate;
- (b) any perimeter fencing (including walls) originally installed by Declarant as part of the perimeter treatment of the Real Estate;
- (c) landscaping and other items installed by Declarant as part of its initial development of the Real Estate or by the Corporation in the right-of-way-of any streets within the Real Estate;
- (d) the ten (10) lakes or ponds shown on the Site Plan, including any equipment (such as water wells, fountains or other aeration equipment) installed by Declarant as an appurtenance to or to aid in the functioning of such lakes or ponds, whether or not

located on Lots and other fountains, sculptures or works of art located in common areas; and

- (e) pedestrian walkways or pedestrian underpasses, including and equipment installed by Declarant as an appurtenance to or to aid in the functioning of such pedestrian walkways or pedestrian underpasses including installation under a Hamilton County public right-of-way (Street).

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Areas as it deems necessary, provided that the same are not inconsistent with the express provisions of this Declaration. Notwithstanding any obligation or duty of the Corporation to repair or maintain any of the Common Areas (or items deemed Common Areas for purposes of maintenance), if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Areas (or items deemed as such for purposes of maintenance), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Corporation, unless such loss is covered by the Corporation's insurance with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Corporation, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject. The authorized representatives of the Corporation, the Board and the Managing Agent for the Corporation (if any) shall be entitled to reasonable access to any Lot as may be required in connection with maintenance, repairs or replacements of or to the Common Areas and items deemed as Common Areas for purposes of maintenance, including, but not limited to, access to any easements reserved, granted or created by any subdivision plat of any portion of the Real Estate for such purposes.

ARTICLE VIII

Saddle Creek Building Control Committee

Section 1. Creation. There shall be, and hereby is, created and established the "Saddle Creek Building Control Committee (the "Committee") to perform the functions provided to be performed by it hereunder or under any subdivision plat of the Real Estate. Until the Applicable Date, the Declarant, or not more than three (3) persons designated by it, shall constitute the Committee. After the Applicable Date, the Committee shall be a standing committee of the Corporation consisting of three (3) or more Persons as may, from time to time, be provided in the By-Laws. If the By-Laws do not, at any time, provide for the Committee, then the Board shall be and constitute the Committee.

Section 2. Character of the Real Estate.

A. In General. Every Lot in Real Estate, unless it is otherwise designated by the Declarant, is a residential lot and shall be used exclusively for single family residential purposes. No

structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house and such other improvements, appurtenances and facilities as are usual and customary accessory uses to a single family dwelling house.

Platted building lines, and minimum front, side and rear building lines shall be as established on any subdivision plats of the Real Estate or portions thereof. All construction upon the Real Estate shall be done in compliance with the requirements of all applicable zoning, building and other governmental laws, ordinances, codes and other regulations.

B. Residential Use of Accessory Structures Prohibited. No accessory uses or improvements shall be erected on any of the Lots prior to the erection thereon of a single family Dwelling Unit, and in no event shall any such accessory or any temporary structure which may be constructed upon a Lot subject to these Restrictions ever be used as a residence or dwelling house or place for human occupancy or habitation.

C. Occupancy and Residential Use of Partially Completed Dwelling House Prohibited. No Dwelling Unit constructed on any of the Lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed and has received a Certificate of Occupancy from the proper building permit authority.

Section 3. Restrictions and Obligations Concerning Size, Placement and Maintenance of Dwelling Units and Other Structures.

A. Minimum Living Space Areas. The minimum square footage of living space of Dwelling Units constructed on the Lots shall be as specified in any recorded subdivision plats of the Real Estate.

B. Set-Back Requirements. Set-back and yard size requirements for Lots shall be as set forth on any recorded subdivision plats of the Real Estate.

C. Mailboxes. In order to aid in the preservation of aesthetic appearances within the Real Estate, any mailbox installed on the Real Estate must be approved by the Committee as to size, location, height and composition before it is installed. A standard mailbox design will be prepared by the Committee, and such design shall be the standard for all mailboxes installed on the Real Estate.

D. Exterior Construction. The finished exterior of every Dwelling Unit and other building constructed or placed on any Lot shall be of material other than aluminum siding, rollbrick siding or any other similar artificial material. Vinyl siding shall be permitted on all sides of the finished exterior of every Dwelling Unit; provided, however, that the front exterior shall be comprised of at least fifty percent (50%) brick. All materials used on the exterior of any Dwelling Unit and any other building improvements on a Lot shall be subject to the approval of the Committee. All driveways must be concrete surface from their point of connection with the abutting street or road to their point of connection with the garage apron.

E. Heating Plants and Garages. Every Dwelling Unit located on the Real Estate must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-around human habitation of the Dwelling Unit. Every Dwelling Unit located on the Real Estate must have at least a two-car attached garage, and the same architectural design and materials as the Dwelling Unit.

F. Diligence in Construction. Unless a delay is caused by strikes, war, court injunction or acts of God, every-building whose construction or placement on any Lot is begun shall be completed within nine (9) months after the beginning of such construction or placement. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than two (2) months from the time of such destruction or damage.

G. Prohibition of Used Structures. All structures constructed or placed on any Lot shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

H. Maintenance of Lots and Improvements. The owner of any Lot shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly and, specifically, such Owner shall:

- (i) Mow the Lot at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds and, in any event, not less frequently than once each three weeks, during the months of April through October, inclusive, of each year;
- (ii) Remove all debris or rubbish on a weekly basis;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Real Estate;
- (iv) Cut down and remove dead trees;
- (v) Where applicable, prevent debris and foreign material from entering drainage areas, this includes but is not limited to soil erosion;
- (vi) Keep the exterior or all improvements in such a state of repair or maintenance as to avoid their becoming unsightly; and

I. Fences, Walls and Screen Structures. In order to aid in the preservation of the aesthetic appearance within the real estate and to help maintain an open view of the natural surroundings, the following restrictions and limitations will apply to rear yard or side yard fences, walls or screening structures:

- (i) No rear yard or side yard fence, wall or screening structure may exceed 48" in height on any Lot. An exception will be made if required by statute or ordinance in conjunction with a specified use of the property.
- (ii) The material and style used for rear yard or sideyard fences or screening structures on all Lots may include ornamental iron or aluminum (black, white, beige or brown color), "Cape Cod" or vertical spaced wood picket (natural or white color). Hidden electronic fencing will be allowed on any Lot. All other materials and styles must be approved by the Committee. Portable or modular kennel or kennel systems will not be allowed on any Lot.
- (iii) In addition to the above, on all Lots adjacent to 136th Street, Ditch Road and 141st Street, the Owner may not install a fence parallel to these streets if a fence is installed by Declarant along any of these streets or parallel to a fence installed by Declarant along these streets. The Owner of the Lots may connect a side yard fence to a fence installed by Declarant along these streets. The Owner of these Lots may not install any fence in a Landscape Easement adjoining the above referenced streets. No Owner may install a fence in any Drainage Easement, Pedestrian Parkway Easement, Internal sidewalk System Easement, County Landscape & Utility Easement, Landscape Easement or Lake Maintenance Easement or Common Area.

J. Declarant's and the Corporation's Right to Perform Certain Maintenance. In the event that any Owner of a Lot shall fail to maintain his Lot and any improvements situated thereon in accordance with the provisions of these Restrictions and the provisions of any recorded subdivision plats of the Real Estate, the Declarant, until the Applicable Date, and, thereafter, the Corporation, shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these Restrictions and the provisions contained in any such subdivision plats. The cost thereof to the Declarant or the Corporation shall be collected as a special assessment against such Owner and his Lot in the manner provided for herein for the collection of Common Expenses. Neither the Declarant nor the Corporation, nor any of its agents, employees, or contractors, shall be liable for any damage which may result from any maintenance work performed hereunder.

Section 4. Provisions Respecting Disposal of Sanitary Waste.

A. Nuisances. No outside toilets shall be permitted on any Lot (except during a period of construction with the placement of said toilets at the discretion of the Committee), and no sanitary waste or other wastes shall be permitted to be exposed.

B. Construction of Sanitary Sewage Lines and Disposal Facilities. All sanitary sewage lines and disposal facilities on the Lots shall be designed, constructed, installed and maintained in

accordance with the provisions and requirements of Hamilton County, Indiana, any other governmental or quasi-governmental agencies having jurisdiction over public sanitary sewers and these Restrictions.

Section 5. General Prohibitions. In addition to any restrictions or limitations contained elsewhere in this Declaration or in any recorded subdivision plats of the Real Estate, the following limitations, restrictions and prohibitions shall govern the development, use and occupancy of the Real Estate:

A. In General. No noxious or offensive activities shall be carried on any Lot, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot.

B. Signs. Except as otherwise permitted by any subdivision plats of the Real Estate or the Committee, no signs or advertisements shall be displayed or placed on any Lot or structures without the prior written approval of the Committee.

C. Animals. No animals shall be kept or maintained on any Lot except usual household pets, and, in such cases, such household pets shall be kept reasonably confined so as not to become a nuisance to adjoining Lot Owners.

D. Vehicle Parking. No trucks, campers, trailers, recreational vehicles (whether for business use or pleasure use), boats, boat trailers or similar vehicles shall be parked or stored on any street or Lot, unless the same are parked in a garage overnight.

E. Garbage, Trash and Other Refuse. No Owner of a Lot shall burn or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out of doors of such refuse on his Lot except as may be permitted in subparagraph F below. All houses shall be equipped with a garbage disposal unit.

F. Fuel Storage Tanks and Trash Receptacles. Every tank for the storage of fuel that is installed outside any building shall be buried below the surface of the ground. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground or shall be so placed and kept as not to be visible from any street within the Real Estate at any time, except at the time when refuse collections are being made.

G. Temporary Structures. No temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any Lot, nor shall any overnight camping be permitted on any Lot.

H. Ditches and Swales. It shall be the duty of every Owner of every Lot on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his Lot continuously unobstructed (both by improvements and plant material) and in

good repair, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subparagraph I.

I. Utility Services. Utility services shall, to the greatest extent possible, be installed underground and in or adjacent to public rights-of-way to minimize removal of or damage to trees.

J. Wells and Septic Tanks. No water wells shall be drilled on any of the Lots, nor shall any septic tanks or other sewage disposal systems be installed on any of the Lots, without the approval of the Committee and of the governing public health agency or other civil authority.

Section 6. Committee's Functions.

A. Statement of Purposes and Powers. The Committee shall regulate the exterior design, appearance, use, location and maintenance of lands subject to these Restrictions, and improvements thereon, in such a manner as to preserve and enhance values, to maintain a harmonious relationship among structures and the natural vegetation and topography, and to provide for the proper functioning of the storm drainage system for the Real Estate. For these purposes, the Committee may, from time to time and at any time, make, amend and modify such rules, regulations and guidelines as it may deem necessary or desirable to guide Owners as to the terms, conditions, procedures and requirements of the Committee for the submission and approval of items to it. Such rules, regulations and guidelines may, in addition, set forth additional specifications to those set forth herein or in any subdivision plats of the Real Estate, so long as the same are not inconsistent with this Declaration or any such subdivision plat. Any person or entity engaged primarily in the business of the construction of single family dwellings for resale to third parties may submit house plans, including the exterior building materials which may be used with such house plans, for pre-approval by the Committee (hereinafter "Pre-Approved Plans"). Notwithstanding anything herein to the contrary, dwellings constructed pursuant to Pre-Approved Plans need no additional approvals from the Committee.

(1) Generally. No dwelling, building, structure or other improvement of any type or kind shall be constructed, placed, repaired, remodeled, reconstructed or altered on any Lot, nor shall any work be done on any Lot which alters or changes the grade or elevation thereof, without the prior approval of the Committee. Unless construction is to be done pursuant to Pre-Approved Plans, such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be made in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction, improvement and other work. Such plans shall include plot (site) plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed, placed, repaired, remodeled, reconstructed or altered upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed (and existing) landscaping, together with any other material or information which the Committee may require. All building plans and drawings required to be submitted to the Committee shall be drawn to a scale of 1/4"~1' and all plot plans shall be

drawn to a scale of 1"=30', or to such other scale as the Committee shall require. There shall also be submitted, where applicable, such other permits or reports as may be required under this Declaration. The following drawings shall be considered minimum for approval consideration:

- (a) Site plan which includes complete topographic study, location of all trees, existing and proposed structures, drives, proposed (or existing) sanitary sewage disposal system location, utility service, storm drainage and grading details, terraces and all landscape details (including size of all planting sand type); and
- (b) Foundation plan, floor plans, cross-sections, exterior elevations, and complete specifications for all materials to be used on the exterior of the house, building, structure or other improvement.
- (i) Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, or to perform other work, when:
 - (a) the plans, specifications, drawings or other material submitted are, themselves, inadequate or incomplete, or show the proposed improvements or work to be in violation of these Restrictions, the requirements or restrictions of any subdivision plats of the Real Estate, the requirements or restrictions of any applicable zoning ordinances, or any rules, regulations or guidelines adopted by the Committee;
 - (b) the design or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures in the sole opinion of the Committee; or
 - (c) the proposed improvement, or work, or any part thereof, would, in the sole opinion of the Committee, be contrary to the interest, welfare or rights of all or any other Owners.

The Committee may not refuse to grant permission to construct or otherwise attempt to revoke or interfere with the construction of a dwelling pursuant to Pre-Approved Plans.

- (ii) Chance Modification or Amendment of rules. Regulations and Guidelines. Any rules, regulations and guidelines at anytime made by the Committee may be changed, modified and amended by the Committee at any time, and from time to time, on a prospective basis; provided, however, that no such change, modification or amendment shall be applied by the Committee retroactively as to any construction theretof ore completed nor as to the construction of any improvement which has previously been formally approved by the Committee

if such construction has been commenced or is commenced within ninety (90) days after such change, modification or amendment is effective. Any rules, regulations or guidelines adopted and made by the Committee, and any changes, modifications or amendments of any such rules, guidelines adopted and made by the Committee, and any changes, modifications or amendments of any such rules, regulations and guidelines at any time made by the Committee, shall be set forth in a written instrument and recorded in the office of the Recorder of Hamilton County, Indiana, and shall be effective upon such recording; provided, however, that the making, adoption, change, modification and amendment of any such rules, regulations or guidelines by the Committee shall not be considered or deemed to be amendments of this Declaration requiring the consent or approval of any Owners, Mortgages or other Persons.

B. Duties of Committee. The Committee shall approve or disapprove proposed improvements or other work within fifteen (15) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and in the event that such notification is one of disapproval, it shall specify the reason or reasons therefor. If the Committee fails to act upon any plans or requests for approval submitted to it for its approval within such fifteen (15) day period, it shall be deemed that the Committee has disapproved such plans or request.

C. Liability of Committee. Neither the Committee, nor any member thereof, nor any agent thereof, nor the Declarant shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto, nor for any action or failure to act with respect to the exercise or non-exercise of its rights, duties and authority hereunder. Further, the Committee does not make, and shall not be deemed by virtue of any action of approval or disapproval taken by it to have made, any representation nor Warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used.

D. Inspection. The Committee and the Declarant may inspect work being performed to assure compliance with these Restrictions, the restrictions contained in any subdivision plats of the Real Estate and applicable regulations. However, neither the Committee, nor any member thereof, nor the Declarant, nor, any agent or contractor employed or engaged by the Committee or the deficiencies in any work inspected or approved by it or them, or on its or their behalf. Further, no such inspection or approval given by or on behalf of the Committee or the Declarant shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

Section 7. Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots shall be owned by the same Person, and such Owner shall desire to use two or more of said Lots as a site for a single Dwelling Unit, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot

for the purpose of applying these Restrictions to said Lots, so long as, and only so long as, the Lots remain improved with one single Dwelling Unit.

ARTICLE IX
Assessments

Section 1. Annual Accounting. Annually, after the close of each fiscal year of the Corporation and prior to the date of the annual meeting of the Corporation next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a public accountant or firm of certified public accountants then serving the Corporation, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

Section 2. Proposed Annual Budget. Annually, on or before the date of the annual or special meeting of the Corporation at which the budget is to be acted upon, the Board of Directors shall cause to be prepared a proposed annual budget for the next ensuing fiscal year estimating the total amount of the Common Expenses for such next ensuing fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the designated meeting of the Corporation for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next ensuing fiscal year. At such annual or special meeting of the Owners, the budget may be approved in whole or in part or may be amended in whole or in part by a majority vote of the Owners; provided, however, that in no event shall such meeting of the Owners be adjourned until an annual budget is approved and adopted at such meeting, either the proposed annual budget or the proposed annual budget as amended. The annual budget, the Regular Assessments and all sums assessed by the Corporation shall be established by using generally accepted accounting principles applied on a consistent basis. The annual budget and the Regular Assessments shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Areas, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses of the Common Areas. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Areas shall be maintained by the Corporation in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Hamilton County or Marion County, Indiana selected from time to time by the Board. The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as here in provided, whenever determined. Whenever, whether before or after the meeting of the Corporation at which the budget is to be acted upon, there is no annual budget approved by the Owners as herein provided for the current fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

Section 3. Regular Assessments. The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the fiscal year covered thereby as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of the assessment against his respective Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days following the adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including the reserve funds as herein above provided. The Regular Assessment against each Lot shall be paid in full in advance by a date specified by the Board which date shall not be earlier than fifteen (15) days after the written notice of such Regular Assessment is given to the Owners. However, at the option of the Board, the Regular Assessment against each Lot may be paid in advance in equal quarterly installments commencing on the first day of the first month of each fiscal year and quarterly thereafter through and including the first day of the last quarter of such fiscal year. Payment of the Regular Assessment, whether in one payment or in quarterly installments, shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors. In the event the Regular Assessment for a particular fiscal year of the Corporation was initially based upon a temporary budget,

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

provided, however, that if an Owner had paid his Regular Assessment in full in advance, then the adjustments set forth under (a) or (b) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners. The Regular Assessment for each fiscal year of the Corporation shall become a lien on each separate Lot as of the first day of each fiscal year of the Corporation, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid his Regular Assessment for

the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers his Lot or any interest therein, shall not relieve or release such Owner or his successor as owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and his successor as owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Corporation pursuant to Section 2 of Article X hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year with respect to which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered or who may rely thereon shall be bound by such final determinations. Annual or quarterly (if so determined by the Board) installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or the Corporation, and neither the Board nor the Corporation shall be responsible for providing any notice or statements to Owners for the same.

Section 4. Special Assessments. From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and without the approval of the Owners, unless otherwise provided in this Declaration, the Articles, the By-Laws or the Act, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

Section 5. Failure of Owner to Pay Assessments.

- (a) No Owner may exempt himself from paying Regular Assessments and Special Assessments, or from contributing toward the expense of administration and of maintenance and repair of the Common Areas and items deemed Common Areas for purposes of maintenance, and toward any other expense lawfully agreed upon, by waiver of the use or enjoyment of the Common Areas or by abandonment of the Lot belonging to him. Each Owner shall be personally liable for the payment of all Regular and Special Assessments against his Lot. Where the Owner constitutes or consists of more than one Person, the liability of such Persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessments or Special Assessments against his Lot when due, the lien for such Assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board for and on behalf of the Corporation as a mortgage on real property or as otherwise provided or permitted by law. Upon the failure of an Owner to make timely payments of any such Regular Assessments or Special Assessments, when due,

the Board may, in its discretion, accelerate the entire balance of the unpaid Assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In any action to foreclose the lien for any Assessments, the Owner and any occupant of the Lot and Dwelling Unit which are the subject of such action shall be jointly and severally liable for the payment to the Corporation of reasonable rental for such Lot and Dwelling Unit, and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Corporation to be applied to the unpaid Regular Assessments or Special Assessments. The Board may, at its option, bring a suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing (and without thereby being deemed to have waived) the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, or any other debts, dues or charges owed the Corporation, whether by foreclosure or otherwise, the Board for and on behalf of the Corporation, shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit all of the costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such Assessments or charges were due, until paid, at a rate equal to the "legal interest rate" then in effect was publicly quoted or published by Bank One, Indianapolis, N.A., of Indianapolis, Indiana (or if said Bank is no longer in existence, then such rate charged by another national bank in Marion County, Indiana selected by the Board).

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

Section 6. Initial Budgets and Assessments.

Notwithstanding anything to the contrary contained herein, in the Articles, in the By-Laws, in the Act or otherwise, until the Applicable Date the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without meeting of or concurrence of the Owners. The agency, power of attorney and proxy granted to the Declarant by each Owner pursuant to Section 2 of Article V hereof shall be deemed to cover and include each Owner's right to vote on and approve the annual budget and any Regular Assessments and Special Assessments until the Applicable Date.

Further, until the Applicable Date and notwithstanding the foregoing or anything else contained herein, no Regular Assessments, Special Assessments or other charges shall be owed or payable by Declarant or Pulte Homes of Indiana with respect to any Lot or other portion of the Real Estate owned by Declarant or Pulte Homes of Indiana while the same is owned by Declarant or Pulte Homes of Indiana, nor shall any such Assessments or charges become a lien on any such Lot or other portion of the Real Estate owned by Declarant or Pulte Homes of Indiana. Assessments against a Lot shall commence to accrue from the date each Lot is conveyed by Declarant or Pulte Homes of Indiana to an Owner other than Declarant or Pulte Homes of Indiana (either by deed or by installment sale, conditional sale or land contract sale), and a prorated portion of the Regular Assessment for the balance of the fiscal year of the Corporation against each Lot so conveyed by Declarant or Pulte Homes of Indiana shall be paid by each purchaser upon such conveyance.

Section 7. Initial Working Capital and Start-Up Fund. Upon (i) the closing of the initial conveyance of each Lot by Declarant to another Person, except for a Person engaged in the construction of single family dwellings for resale, or (ii) the sale of each Lot by a Person engaged in the construction of single family dwellings for resale (either by deed or by installment sale, conditional sale or land contract sale), the purchaser of such Lot shall pay to the Corporation, in addition to any other amounts then owed or due to the Corporation, as a contribution to its working capital and start-up fund, an amount of two hundred fifty dollars (\$250.00) against such Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any Assessment or other charge owed the Corporation with respect to such Lot. Such working capital and start-up fund shall be held and used by the Corporation for payment of, or reimbursement to Declarant for advances made to pay, expenses of the Corporation for its early period of operation of the Real Estate, to enable the Corporation to have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary by the Board.

ARTICLE X
Mortgages

Section 1. Notice to Corporation. Any Owner who places a first mortgage lien upon his Lot, or the Mortgagee, shall notify the Secretary of the Corporation thereof and provide the name and address of the Mortgagee. A record of each such first mortgage, and name and address of the Mortgagee, shall be maintained by the Secretary and any notice required to be given to the Mortgagee

pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, either by the Owner or the Mortgagee, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required and no Mortgagee shall be entitled to vote on any matter to which he otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise. The Corporation shall, upon request of a Mortgagee who has furnished the Corporation with its name and address as herein above provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws which is not cured within sixty (60) days.

Section 2. Notice of Unpaid Assessments. The Corporation shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments or Special Assessments or other charges against the Lot, which statement shall be binding upon the Corporation and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid Assessments or charges in excess of the amounts set forth in such statement or as such Assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 3 of Article IX hereof.

ARTICLE XI

Insurance

Section 1. Casualty Insurance. The Corporation shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring the Common Areas in an amount consistent with the full replacement value of the improvements, if any, which, in whole or in part, comprise the Common Areas. If the Board of Directors can obtain such coverage for a reasonable amount it may also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board, the Board may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall name the Corporation as the insured, for the benefit of each Owner (to the extent, if any, that individual Owners have an independent interest in the property covered thereby). All proceeds payable as a result of casualty losses sustained which are covered by insurance purchased by the Corporation as herein above set forth shall be paid to it or to the Board of Directors. In the event that the Board of Directors has not posted surety bonds for the faithful performance of their duties as such Directors or if such bonds do not exceed the funds which will come into its hands, and there is damage to a part or all of the Common Areas resulting in a loss, the Board of Directors shall obtain and post a bond for the faithful performance of its duties in an amount to be determined by Board, but not less than 150% of the loss, before the Board shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the Board in connection with any such insurance proceeds shall be to

receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners. The proceeds shall be used or disbursed by the Corporation or the Board, as appropriate, only in accordance with the provisions of this Declaration. Such master casualty insurance policy, and "all risk" coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Corporation, the Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Board of Directors is able to obtain such insurance upon reasonable terms (i) that the insurer shall not be entitled to contribution against casualty insurance which may be purchased by individual Owners, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Corporation does not elect to restore.

Section 2. Public Liability Insurance. The Corporation shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any event with a minimum combined limit of \$1,000,000.00 per occurrence. Such comprehensive public liability insurance policy shall cover all of the Common Areas; including but not limited to any pedestrian underpasses installed by Declarant under a Hamilton County public right-of-way and shall insure the Corporation, the Board of Directors, any committee or organ of the Corporation or Board, any Managing Agent appointed or employed by the Corporation, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate, all Owners of Lots and all other persons entitled to occupy any Lot or Dwelling Unit and shall list Hamilton County or its successors as additional insured on the policy if required by Hamilton County Commissioners. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Corporation or other Owners.

Section 3. Other Insurance. The Corporation shall also obtain any other insurance required by law to be maintained, including but not limited to worker's compensation and occupational disease insurance, and such other insurance as the Board of Directors may from time to time deem necessary, advisable or appropriate, including but not limited to, liability insurance on vehicles owned or leased by the Corporation and officers and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Corporation, the Board of Directors and any Managing Agent acting on behalf of the Corporation. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under the policies purchased by the Board of Directors the proceeds of which are payable to the Board or the Corporation.

Section 4. General Provisions. The premiums for all insurance herein above described shall be paid by the Corporation as part of the Common Expenses. In no event shall any distribution of insurance proceeds be made by the Board of Directors directly to an Owner where there is a mortgagee endorsement on the certificate of insurance or insurance policy as it applies to such

Owner's share of such proceeds. In such event any remittances shall be the Owner and his Mortgagee jointly. The same method of distribution shall also apply to the distribution of any condemnation awards in connection with any taking of any of the Common Areas. Notwithstanding the foregoing, under no circumstances shall any distribution of insurance proceeds or condemnation awards be made by the Corporation to any Owners or Mortgagees if to do so would be in violation of the Act or if the same would constitute a distribution of earnings, profits or pecuniary gain to the members of the Corporation; in any such event, any such insurance proceeds or condemnation awards shall be retained by the Corporation for use in the payment of its expenses of operation.

Section 5. Insurance by Owners. Each Owner shall be solely responsible for and shall obtain such additional insurance as he deems necessary or desirable, at his own expense, affording coverage upon his personal property, his Lot, his Dwelling Unit, the contents of his Dwelling Unit, his personal property stored anywhere on the Real Estate, and for his personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Corporation.

ARTICLE XII Casualty and Restoration

In the event of damage to or destruction of any of the Common Areas due to fire or any other casualty or disaster, the Corporation shall promptly cause the same to be repaired and reconstructed. The proceeds of insurance carried by the Corporation, if any, shall be applied to the cost of such repair and reconstruction. If the insurance proceeds, if any, received by the Corporation as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Areas, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Areas so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be assessed by the Corporation against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein. For purposes of this Article, repair, reconstruction and restoration shall mean construction or rebuilding the Common Areas to as near as possible the same condition as they existed immediately prior to the damage or destruction. Immediately after a fire or other casualty or disaster causing damage to any property for which the Board of Directors or Corporation has the responsibility of maintenance and repair hereunder, the Board shall obtain reliable and detailed estimates of the cost to place the damaged property in a condition as good as, that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires or deems necessary. Encroachments upon any Lot which may be created as a result of such reconstruction or repair of any of the Common Areas shall not constitute a claim or basis of a proceeding or action by the Owner upon whose Lot such encroachments exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Common Areas were originally constructed.

ARTICLE XIII
Restrictions, Covenants and Regulations

Section 1. Restrictions on Use. The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Areas shall be in addition to any other covenants or restrictions contained herein and in any subdivision plats or any part of the Real Estate heretofore or hereafter recorded, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Corporation. Present or future Owners or the Corporation shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

- (a) All Lots and Dwelling Units shall be used exclusively for residential purposes and for occupancy by a single family.
- (b) Nothing shall be done or kept by an Owner in any Dwelling Unit, or on any Lot, or on any of the Common Areas, which will cause an increase in the rate of insurance on any Common Areas. No Owner shall permit anything to be done or kept in his Dwelling Unit or on his Lot which will result in a cancellation of insurance on any part of the Common Areas, or which would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.
- (c) No nuisance shall be permitted and no waste shall be committed in any Dwelling Unit or on any Lot.
- (d) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Committee unless otherwise expressly authorized herein, or in any recorded subdivision plat, or by the rules, regulations and guidelines of the Committee.
- (e) No Dwelling Unit or Lot shall be used in any unlawful manner or in any manner which might cause injury to the reputation of the subdivision developed or to be developed on the Real Estate, or which might be a nuisance, annoyance, inconvenience or damage to other Owners and occupants of Dwelling Units or neighboring property, including without limiting the generality of the foregoing, noise by the use of any musical instruments, radio, television, loud speakers, electrical equipment, amplifiers or other equipment or machines or loud speakers.

Owner of a Lot abutting the lakes or ponds shall indemnify and hold harmless the Corporation and each other Owner against all loss or damage incurred as a result of injury to any person or damage to any property, or as a result of any other cause, arising from or related to use of, or access to, the lakes or ponds by any person who gains access thereto from, over or across such Owner's Lot. Declarant shall have no liability to any person with respect to any damage to any Lot resulting from the lakes or ponds or the proximity of a Lot thereto, including loss or damage to any Lot resulting from erosion.

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

Section 2. Non-applicability to Corporation.

Notwithstanding anything to the contrary contained herein, the covenants and restrictions set forth in Section 1 of this Article XIII shall not apply to or be binding upon the Corporation in its ownership, management, administration, operation, maintenance, repair, replacement and upkeep of the Common Areas to the extent the application thereof could or might hinder, delay or otherwise adversely affect the Corporation in the performance of its duties obligations and responsibilities as to the Common Areas.

ARTICLE XIV
Amendment of Declaration

Section 1. Generally. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

- (a) Notice. Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

- (f) No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Areas. The Common Areas shall be kept free and clear of rubbish, debris and other unsightly materials.
- (g) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted practiced or permitted on the Real Estate unless and except as otherwise authorized or permitted by any subdivision plats of the Real Estate.
- (h) All Owners and members of their family, their guests, or invites, and all occupants of any Dwelling Unit or other persons entitled to use the same and to use and enjoy the Common Areas or any part thereof, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board governing the operation, use and enjoyment of the Common Areas.
- (i) No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas, except with express permission from the Board.
- (j) Common Areas shall be used and enjoyed only for the purposes for which they are designed and intended, and shall be used subject to the rules and regulations from time to time adopted by the Board. Without limiting the generality of the foregoing, the lakes or ponds to be installed on the Real Estate, as shown on the Site plan, are and will be an integral part of the storm water drainage system serving the Real Estate and are intended to be used for such purpose and primarily as visual and aesthetic amenities and not as recreational amenities. Accordingly, no use shall be made of such lakes or ponds which in any way interferes with their proper functioning as part of such storm water drainage system. No boating, swimming, diving, skiing or ice skating shall be permitted in or on said lakes or ponds. No sewage, garbage, refuse, or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into said lakes or ponds except the Corporation may take steps to clear and purify the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to aerate the same. Fishing from the shores of such lake or ponds shall be permitted subject to abeyance and compliance with all applicable fishing and game laws, ordinances, rules and regulations. The Corporation shall be responsible for the maintenance of the ponds and the banks of the ponds above the water level to the Lot lines (except for the cutting of grass, which will be the responsibility of each Lot owner adjoining a pond) The maintenance costs of the ponds and such banks shall be assessed as an assessment against all Lots subject to assessment as part of the Common Expenses. No dock, pier, wall or other structure may be extended into the lakes or ponds without the written permission of the Building Committee. Except for such loss or damage as may result from the act or omission of the Corporation or its agents in the course of maintaining the lakes or ponds and the adjoining banks, each

- (b) Resolution. A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.
- (c) Meeting. The resolution concerning a proposed amendment must be adopted by a designated vote at a meeting duly called and held in accordance with the provisions of the By-Laws.
- (d) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes of all Owners. In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.
- (e) Special Amendments. No amendment to this Declaration shall be adopted which changes (1) the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of Article XI of this Declaration with respect to casualty insurance to be maintained by the Corporation, or (3) the provisions of Article XII of this Declaration with respect to reconstruction or repair of the Common Areas in the event of fire or any other casualty or disaster, or (4) the provisions of this Declaration establishing the Committee and providing for its functions, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.
- (f) Recording. Each amendment to the Declaration shall be executed by the President and Secretary of the Corporation and shall be recorded in the office of the Recorder of Hamilton County, Indiana, and such amendment shall not become effective until so recorded.

Section 2. Amendments by Declarant Only. Notwithstanding the foregoing or anything elsewhere contained herein, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Corporation, the Board of Directors, any Mortgagees or any other Person to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (a) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Veterans Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by such entities, (b) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (c) to bring this Declaration into compliance with any statutory requirements, (d) to comply with or satisfy the requirements of any insurance underwriters, insurance rating bureaus or organizations which perform (or may in the

STATE OF INDIANA)
)
COUNTY OF HAMILTON) SS:

Before me, a Notary Public in and for said County and State, personally appeared John J. Kennelly, the President of SADDLE CREEK DEVELOPMENT COMPANY, an Indiana corporation, who acknowledged the execution of the above and foregoing instrument as his voluntary act and deed as such officer for and on behalf of said corporation, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto affixed my hand and Notarial Seal this 6th day of June, 1997.

My Commission Expires:
6/5/98

Burke N. Schneider
NOTARY PUBLIC

My County of Residence:
Marion

Burke N. Schneider
Printed

This instrument was prepared by Timothy E. Ochs, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; Telephone: (317) 236-2100.

SADDLE CREEK SUBDIVISION

LEGAL DESCRIPTION
Original Tract - Exhibit "A"

Parcel 1

A part of the East Half of the Southeast Quarter of Section 21, Township 18 North, Range 3 East in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of said East Half; thence South 89 degrees 16 minutes 11 seconds West along the South line of said East Half 550.80 feet; thence North 00 degrees 43 minutes 49 seconds West 240.00 feet; thence North 89 degrees 16 minutes 11 seconds East 2395 feet; thence North 00 degrees 43 minutes 49 seconds West 22856 feet; thence South 45 degrees 31 minutes 49 seconds West 142.56 feet; thence South 89 degrees 16 minutes 11 seconds West 309.00 feet; thence North 48 degrees 58 minutes 24 seconds West 70.41 feet; thence North 00 degrees 08 minutes 43 seconds West 764.92 feet; thence North 88 degrees 58 minutes 07 seconds West 19.07 feet; thence North 52 degrees 14 minutes 27 seconds West 165.35 feet to a curve having radius of 225.00 feet, the radius point of which bears South 52 degrees 14 minutes 27 seconds East; thence along said curve 50.61 feet to a point which bears North 39 degrees 21 minutes 12 seconds West from said radius point; thence South 89 degrees 51 minutes 17 seconds West 227.77 feet to the West line of said East Half; thence North 00 degrees 08 minutes 43 seconds West along said West line of the East Half 359.19 feet; thence North 89 degrees 51 minutes 17 seconds East 80.92 feet; thence North 77 degrees 08 minutes 27 seconds East 111.08 feet; thence South 70 degrees 41 minutes 28 seconds East 98.17 feet; thence South 29 degrees 50 minutes 51 seconds East 141.44 feet; thence South 46 degrees 49 minutes 57 seconds East 55.56 feet; thence South 89 degrees 10 minutes 10 seconds East 73.12 feet; thence South 58 degrees 55 minutes 57 seconds East 188.53 feet; thence South 31 degrees 04 minutes 03 seconds West 9.40 feet; thence South 58 degrees 55 minutes 57 seconds East 140.08 feet; thence North 50 degrees 45 minutes 21 seconds East 117.94 feet; thence South 38 degrees 52 minutes 45 seconds East 96.51 feet; thence South 35 degrees 30 minutes 25 seconds East 96.51 feet; thence South 32 degrees 08 minutes 04 seconds East 96.51 feet; thence South 28 degrees 51 minutes 08 seconds East 91.37 feet; thence South 25 degrees 40 minutes 19 seconds East 90.66 feet; thence South 21 degrees 16 minutes 23 seconds East 161.09 feet; thence South 89 degrees 58 minutes 42 seconds East 198.50 feet to the East line of said East Half; thence South 00 degrees 01 minutes 18 seconds West along the East line of said East Half 845.89 feet to the point of beginning, containing 27.346 Acres, more or less.

Parcel 2

A part of the East Half of the Southeast Quarter of Section 21, Township 18 North, Range 3 East in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of said East Half; thence South 89 degrees 16 minutes 11 seconds West along the South line of said East Half 550.80 feet to the point of beginning; thence North 00 degrees 43 minutes 49 seconds West 240.00 feet; thence North 89 degrees 16 minutes 17 seconds East 2395 feet; thence North 00 degrees 43 minutes 49 seconds West 228.56 feet; thence South 45 degrees 31 minutes 49 seconds West 142.56 feet; thence South 89 degrees 16 minutes 11 seconds West 309.00 feet; thence North 48 degrees 58 minutes 24 seconds West 70.41 feet; thence North 00 degrees 08 minutes 43 seconds West 764.92 feet; thence North 88 degrees 58 minutes 07 seconds West 19.07 feet; thence North 52 degrees 14 minutes 27 seconds West 165.35 feet to a curve having radius of 225.00 feet, the radius point of which bears South 52 degrees 14 minutes 27 seconds East; thence along said curve 50.61 feet to a point which bears North 39 degrees 21 minutes 12 seconds West from said radius point; thence South 89 degrees 51 minutes 17 seconds West 227.77 feet to the West line of said East Half; thence South 00 degrees 08 minutes 43 seconds East along said West line of the East Half 1323.41 feet to the Southwest corner of said East Half; thence North 89 degrees 16 minutes 11 seconds East along the South line of said East Half 798.85 feet to the point of beginning containing 14.049 acres, more or less.

LEGAL DESCRIPTION

Additional Tract- Exhibit "B"

A parcel of land lying within (he North Half of Section 21, Township 18 North, Range 3 East of the Second Principal Meridian, Clay Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the Northeast Quarter of Section 21, Township 18 North, Range East of the Second Principal Meridian, Clay Township, Hamilton County, Indiana, said corner being the POINT OF BEGINNING; thence South 89 degrees 17 minutes 43 seconds West (basis of bearing is South 89 degrees 33 minutes 42 seconds West on the North line of said Northeast Quarter) a distance of 2690.64 feet on the South line of said Northeast Quarter to the Southeast corner of the Northwest Quarter of said Section 21; thence South 89 degrees 17 minutes 24 seconds West, 1344.70 feet on the South line of said Northwest Quarter to the Southwest corner of the East Half of said Northwest Quarter; thence North 00 degrees 29 minutes 34 seconds West, 658.82 feet on the West line of the East Half of said Northwest Quarter to the Northwest corner of the South Half of the Southeast Quarter of said Northwest Quarter; thence North 89 degrees 15 minute: 29 seconds East, 1346.84 feet on the North line of the South Half of the Southeast Quarter of said Northwest Quarter to the Northeast corner of tile South Half of the Southeast Quarter of said Northwest Quarter, being on the West line of said Northeast Quarter; thence North 00 degrees 18 minutes 25 seconds West, 1076.71 feet on the West line of said Northeast Quarter to a 518 inch diameter rebar at the intersection with an existing East-West fence line, said rebar being at the Southwest corner of the real estate described in Deed Book 170, page 293 in the Office of the Recorder of Hamilton County, Indiana; thence North 89 degrees 35 minutes 50 seconds East, 2261.15 feet on said fence line, being on the South line of the real estate described in said Deed Book 170, page 293 and (he South line of the real estate described in Deed Book 251, page 201 to a 518 inch diameter rebar with cap marked Weihe Engr LS 0012" at a corner of the real estate described in said Deed Book 251, page 201; the following two (2) courses are on the perimeter of the real estate described in said Deed Book 251, page 201; 1) thence South 00 degrees 18 minutes 23 seconds East, 799.70 feet to a 518 inch diameter rebar with cap marked Weihe Engr LS 0012"; 2) thence North 89 degrees 49 minutes 54 seconds East, 434.46 feet to a PK nail on the East line of said Northeast Quarter; thence South 00 degrees 00 minutes 10 seconds West. 920.35 feet on the East line of said Northeast Quarter to the POINT OF BEGINNING; Containing 119.32 acres of land, more or less.

Together with the following:

Beginning at the Northeast corner of the East Half of said Southeast Quarter Section; thence South 00 degrees 01 minutes 18 seconds West 40.00 feet; thence parallel with the North line of said East Half, South 89 degrees 17 minutes 43 seconds West 328.15 feet; thence South 49 degrees 54 minutes 05 seconds West 46.37 feet; thence South 10 degrees 30 minutes 27 seconds West 19.09 feet to a curve having radius of 110.00 feet, the radius point of which bears North 79 degrees 29 minutes 33 seconds West; thence Southerly along said curve, 20.09 feet to a point which bears South 69 degrees

01 minutes 37 seconds East from said radius point; thence South 20 degrees 58 minutes 23 seconds West 50.12 feet to a curve having radius of 20.01 feet, the radius point of which bears South 69 degrees 01 minutes 37 seconds East; thence Southerly and Southeasterly along said curve, 30.37 feet to a point which bears South 23 degrees 57 minutes 24 seconds West from said radius point; thence South 66 degrees 02 minutes 36 seconds East 51.11 feet to a curve having radius of 250.00 feet, the radius point of which bears South 23 degrees 57 minutes 24 seconds West; thence Southeasterly along said curve, 60, 16 feet to a point which bears North 37 degrees 44 minutes 41 seconds East from said radius point; thence South 37 degrees 44 minutes 41 seconds West 50.00 feet; thence South 23 degrees 57 minutes 24 seconds West 118.63 feet; thence South 05 degrees 57 minutes 41 seconds West 245.64 feet; thence South 03 degrees 15 minutes 50 seconds East 229.12 feet; thence South 08 degrees 37 minutes 47 seconds East 54.56 feet; thence South 45 degrees 04 minutes 23 seconds West 142.71 feet; to a nontangent curve having radius of 1825.00 feet, the radius point of which bears South 44 degrees 55 minutes 37 seconds West; thence Southeasterly along said curve, 36.52 feet to a point which bears North 46 degrees 04 minutes 24 seconds East from said radius point; thence South 46 degrees 03 minutes 45 seconds West 185.00 feet; thence South 42 degrees 15 minutes 05 seconds East 96.51 feet to a point on the Northerly boundary of Saddle Creek Section One (the next 10 courses are along the Northerly boundary of said Saddle Creek Section One); (1) thence South 50 degrees 45 minutes 21 seconds West 117.94 feet; (2) thence North 58 degrees 55 minutes 57 seconds West 140.08 feet; (3) thence North 31 degrees 04 minutes 03 seconds East 9.40 feet; (4) thence North 58 degrees 55 minutes 57 seconds West 188.53 feet; (5) thence North 69 degrees 10 minutes 10 seconds West 73.12 feet; (6) thence North 46 degrees 49 minutes 57 seconds West 55.56 feet; (7) thence North 29 degrees 50 minutes 51 seconds West 141.44 feet; (8) thence North 70 degrees 41 minutes 28 seconds West 96.17 feet; (9) thence South 77 degrees 06 minutes 27 seconds West 111.08 feet; (10) thence South 89 degrees 51 minutes 17 seconds West 80.92 feet to the West line of the East Half of said Southeast Quarter Section; thence along said West line, North 00 degrees 08 minutes 43 seconds West 948.29 feet to the North line of said East Half; thence along said North line, North 89 degrees 17 minutes 43 seconds East 1345.31 feet to the Point of Beginning, containing 24.595 acres, more or less.

Commencing at the Northeast corner of the East Half of said Southeast Quarter Section; thence along the East line of said Southeast Quarter Section, South 00 degrees 01 minutes 18 seconds West 40.00 feet to the Point of Beginning; thence continue along said East line, South 00 degrees 01 minutes 18 seconds West 1744.48 feet to the Northeasterly corner of Saddle Creek Section One (the next seven courses are along the Northerly boundary of said Saddle Creek Section One); (1) thence North 89 degrees 58 minutes 42 seconds West 198.50 feet; (2) thence North 21 degrees 16 minutes 23 seconds West 161.09 feet; (3) thence North 25 degrees 40 minutes 19 seconds West 90.66 feet; (4) thence North 28 degrees 51 minutes 08 seconds West 91.37 feet; (5) thence North 32 degrees 08 minutes 04 seconds West 96.51 feet; (6) thence North 35 degrees 30 minutes 25 seconds West 96.51 feet; (7) thence North 38 degrees 52 minutes 45 seconds West 96.51 feet to a point on the Easterly boundary of Saddle Creek Section Three (the next 17 courses are along the Easterly boundary of said Saddle Creek Section Three); (1) thence North 42 degrees 15 minutes 05 seconds West 96.51 feet; (2) thence North 46 degrees 03 minutes -5 seconds East 185.00 feet to a nontangent curve having a radius of 1825.00 feet. the radius point of which bears South 46 degrees 04 minutes 24 seconds West; (3)

thence Northwesterly along said curve, 36.52 feet to a point which bears North 44 degrees 55 minutes 37 seconds East from said radius point; (4) thence North 45 degrees 04 minutes 23 seconds East 142.71 feet; (5) thence North 08 degrees 37 minutes 47 seconds West 54.56 feet; (6) thence North 03 degrees 15 minutes 50 seconds West 229.12 feet; (7) thence North 05 degrees 57 minutes 41 seconds East 245.64 feet; (8) thence North 23 degrees 57 minutes 24 seconds East 118.63 feet; (9) thence North 37 degrees 44 minutes 41 seconds East 50.00 feet; to a nontangent curve having a radius of 250.00 feet. the radius point of which bears South 37 degrees 44 minutes 4 seconds West; (10) thence Northwesterly along said curve. 60.16 feet to a point which bears North 23 degrees 57 minutes 24 seconds East from said radius point; (11) thence North 66 degrees 02 minutes 36 seconds West 51.11 feet to a curve having a radius of 20.00 feet, the radius point of which bears North 23 degrees 57 minutes 24 seconds East; (12) thence Northwesterly and Northerly along said curve 30.37 feet to a point which bears North 69 degrees 01 minutes 37 seconds West from said radius point; (13) thence North 20 degrees 58 minutes 23 seconds East 50.12 feet to a curve having a radius of 110.00 feet. the radius point of which bears North 69 degrees 01 minutes 37 seconds West; (14) thence along said curve, 20.09 feet to a point which bears South 79 degrees 29 minutes 33 seconds East from said radius point; (15) thence North 10 degrees 30 minutes 27 seconds East 19.09 feet; (16) thence North 49 degrees 54 minutes 05 seconds East 46.37 feet to a point located 40.00 feet Southerly. measured at right angles, from the North line of the East Half of said Southeast Quarter Section; (17) thence parallel with said North line, North 89 degrees 17 minutes 43 seconds East 328.15 feet to the Point of Beginning. containing 15.018 acres, more or less.

RECORDED 06-02-98
INSTRUMENT # 9809829337

COPY

FIRST AMENDMENT TO THE AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF SADDLE CREEK
CARMEL, INDIANA

This First Amendment To The Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana ("Amendment"), is made as of the 12th day of September, 1997, by Saddle Creek Development Company, Inc., an Indiana corporation (the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the fee simple owner of at least seventy-five percent (75%) of the platted lots on the parcels of real estate located in Hamilton County, Indiana, which are more particularly described in Exhibit "A", attached hereto and hereby incorporated herein by reference (hereinafter referred to, collectively, as the "Real Estate"); and

WHEREAS, Declarant executed the Declaration of Covenants and Restrictions, Saddle Creek, Carmel, Indiana on October 11, 1996 (the "Original Declaration"), which Original Declaration was recorded on October 17, 1996 in the Office of the Recorder of Hamilton County, Indiana as Instrument Number 96096444059.

WHEREAS, Declarant executed the Amended and Restated Declaration of Covenants and Restrictions, Saddle Creek, Carmel, Indiana on JUNE 6th, 1997 (the "Restated Declaration"), which Restated Declaration was recorded on June 6, 1997 in the Office of the Recorder of Hamilton County, Indiana as Instrument Number 9709722316.

WHEREAS, Declarant desires to amend the Restated Declarations pursuant to this Amendment.

NOW THEREFORE, Declarant hereby declares that the Restated Declaration is amended as follows:


1. Article III, Section 1(d)(i) is hereby deleted.
2. Article VIII, Section 3(I)(ii) is hereby deleted and replaced with the following:

The material and style used for rear yard or sideyard fences or screening structures on all Lots shall be ornamental iron or aluminum, and black in color; provided, however, that the Committee may approve or deny, in its sole discretion, any other material and style of fence or screening structures. Hidden electronic fencing is allowed on any Lot. Portable or modular kennel or kennel systems shall not be allowed on any Lot.

3. Article I, Section 1(t) is hereby deleted, and all references to "Site Plan", including the reference contained in the Table of Contents, is hereby deleted.
4. Except as specifically amended or modified by this Amendment, all terms, conditions, obligations and restrictions contained in the Restated Declaration shall remain in full force and effect as provided therein.
5. Capitalized terms in this Amendment shall have the same meaning as such terms are defined in the Restated Declaration, unless stated otherwise herein.

IN WITNESS WHEREOF, Declarant has executed this First Amendment To The Amended and Restated Declaration of Covenants and Restrictions, Saddle Creek, Carmel, Indiana as of the date first above written.

SADDLE CREEK DEVELOPMENT COMPANY

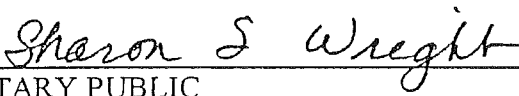
By: 
 John J. Kennelly, President

STATE OF INDIANA)
)
 COUNTY OF HAMILTON) SS:


Before me, a Notary Public in and for said County and State, personally appeared John J. Kennelly, the President of SADDLE CREEK DEVELOPMENT COMPANY, an Indiana corporation, who acknowledged the execution of the above and foregoing instrument as his voluntary act and deed as such officer for and on behalf of said corporation, for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto affixed my hand and Notarial Seal this 12 day of September, 1997.

My Commission Expires:


 NOTARY PUBLIC

My County of Residence:

Printed:  SHARON S. WRIGHT
 MY COMMISSION EXPIRES: 7-4-98
 MY COUNTY OF RESIDENCE IS: MADISON

This instrument was prepared by Timothy E. Ochs, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; Telephone: (317) 236-5952.

SADDLE CREEK SUBDIVISION

LEGAL DESCRIPTION

Real Estate - Exhibit "A"

Parcel 1

A part of the East Half of the Southeast Quarter of Section 21, Township 18 North, Range 3 East in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of said East Half; thence South 89 degrees 16 minutes 11 seconds West along the South line of said East Half 550.80 feet; thence North 00 degrees 43 minutes 49 seconds West 240.00 feet; thence North 89 degrees 16 minutes 11 seconds East 2395 feet; thence North 00 degrees 43 minutes 49 seconds West 22856 feet; thence South 45 degrees 31 minutes 49 seconds West 142.56 feet; thence South 89 degrees 16 minutes 11 seconds West 309.00 feet; thence North 48 degrees 58 minutes 24 seconds West 70.41 feet; thence North 00 degrees 08 minutes 43 seconds West 764.92 feet; thence North 88 degrees 58 minutes 07 seconds West 19.07 feet; thence North 52 degrees 14 minutes 27 seconds West 165.35 feet to a curve having radius of 225.00 feet, the radius point of which bears South 52 degrees 14 minutes 27 seconds East; thence along said curve 50.61 feet to a point which bears North 39 degrees 21 minutes 12 seconds West from said radius point; thence South 89 degrees 51 minutes 17 seconds West 227.77 feet to the West line of said East Half; thence North 00 degrees 08 minutes 43 seconds West along said West line of the East Half 359.19 feet; thence North 89 degrees 51 minutes 17 seconds East 80.92 feet; thence North 77 degrees 08 minutes 27 seconds East 111.08 feet; thence South 70 degrees 41 minutes 28 seconds East 98.17 feet; thence South 29 degrees 50 minutes 51 seconds East 141.44 feet; thence South 46 degrees 49 minutes 57 seconds East 55.56 feet; thence South 89 degrees 10 minutes 10 seconds East 73.12 feet; thence South 58 degrees 55 minutes 57 seconds East 188.53 feet; thence South 31 degrees 04 minutes 03 seconds West 9.40 feet; thence South 58 degrees 55 minutes 57 seconds East 140.08 feet; thence North 50 degrees 45 minutes 21 seconds East 117.94 feet; thence South 38 degrees 52 minutes 45 seconds East 96.51 feet; thence South 35 degrees 30 minutes 25 seconds East 96.51 feet; thence South 32 degrees 08 minutes 04 seconds East 96.51 feet; thence South 28 degrees 51 minutes 08 seconds East 91.37 feet; thence South 25 degrees 40 minutes 19 seconds East 90.66 feet; thence South 21 degrees 16 minutes 23 seconds East 161.09 feet; thence South 89 degrees 58 minutes 42 seconds East 198.50 feet to the East line of said East Half; thence South 00 degrees 01 minutes 18 seconds West along the East line of said East Half 845.89 feet to the point of beginning, containing 27.346 Acres, more or less.

Parcel 2

A part of the East Half of the Southeast Quarter of Section 21, Township 18 North, Range 3 East in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of said East Half; thence South 89 degrees 16 minutes 11 seconds West along the South line of said East Half 550.80 feet to the point of beginning; thence North 00 degrees 43 minutes 49 seconds West 240.00 feet; thence North 89 degrees 16 minutes 17

seconds East 2395 feet; thence North 00 degrees 43 minutes 49 seconds West 228.56 feet; thence South 45 degrees 31 minutes 49 seconds West 142.56 feet; thence South 89 degrees 16 minutes 11 seconds West 309.00 feet; thence North 48 degrees 58 minutes 24 seconds West 70.41 feet; thence North 00 degrees 08 minutes 43 seconds West 764.92 feet; thence North 88 degrees 58 minutes 07 seconds West 19.07 feet; thence North 52 degrees 14 minutes 27 seconds West 165.35 feet to a curve having radius of 225.00 feet, the radius point of which bears South 52 degrees 14 minutes 27 seconds East; thence along said curve 50.61 feet to a point which bears North 39 degrees 21 minutes 12 seconds West from said radius point; thence South 89 degrees 51 minutes 17 seconds West 227.77 feet to the West line of said East Half; thence South 00 degrees 08 minutes 43 seconds East along said West line of the East Half 1323.41 feet to the Southwest corner of said East Half; thence North 89 degrees 16 minutes 11 seconds East along the South line of said East Half 798.85 feet to the point of beginning containing 14.049 acres, more or less.

188266.2

FILED FOR RECORD
FILED FOR RECORD IN
HAMILTON COUNTY, INDIANA
MARY L CLARK
ON 05-01-2000 AT 01:22 PM.
AMEND DECL 26.00

CROSS-REFERENCES: (1) Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, recorded with the Recorder of Hamilton County, Indiana, on the 17th day of October, 1996, as Instrument Number 9609644059; (2) Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, recorded with the Recorder of Hamilton County, Indiana on the 6th day of June, 1997, as Instrument Number 9709722316; (3) First Amendment to the Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, recorded with the Recorder of Hamilton County, Indiana on the 2nd day of June, 1998, as Instrument Number 9809829337; (4) Saddle Creek Section 1 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 17th day of October, 1996, as Instrument Number 9609644060, P.C. No. 1, Slide No. 728; (5) Saddle Creek Section 2 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 17th day of October, 1996, as Instrument Number 9609644061, P.C. 1, Slide 729; (6) Saddle Creek Section 3 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 22nd day of February, 1999, as Instrument Number 9909911339, P.C. 2, Slide 227; (7) Saddle Creek Section 4 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 22nd day of February, 1999, as Instrument Number 9909911340, P.C. 2, Slide 228; (8) Saddle Creek Section 5 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 26th day of November, 1997, as Instrument Number 9709750987, P.C. 2, Slide 51; and (9) Saddle Creek Section 6 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 1st day of April, 1999, as Instrument Number 9909919786, P.C. 2, Slide 245.

**SECOND AMENDMENT TO THE AMENDED AND
RESTATED DECLARATION OF COVENANTS AND
RESTRICTIONS OF SADDLE CREEK, CARMEL, INDIANA**

This second amendment to the Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana (hereafter "Second Amendment"), is made this 21st day of April, 2000, by DITCH ROAD PROPERTIES, LLC, an Indiana limited liability company, successor in interest to Saddle Creek Development Company, Inc.;

WITNESSETH:

WHEREAS, Saddle Creek Development Company, Inc., an Indiana corporation, as Declarant, executed the Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, on the 11th day of October, 1996 (hereafter "Original Declaration"), which Original Declaration was recorded on the 17th day of October, 1996, in the Office of the Recorder of Hamilton County, Indiana, as Instrument Number 9609644059;

WHEREAS, Saddle Creek Development Company, Inc., as Declarant, thereafter executed the Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, on June 6, 1997 (hereafter the "Restated Declaration"), which Restated Declaration was recorded on the 6th day of June, 1997, in the Office of the Recorder of Hamilton County, Indiana, as Instrument Number 9709722316;

WHEREAS, the Saddle Creek Development Company, Inc., as declarant, then executed the First Amendment to the Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, on the 12th day of September, 1997 (hereafter "First Amendment"), which First Amendment was recorded on the 2nd day of June, 1998, in the Office of the Recorder of Hamilton County, Indiana, as Instrument Number 9809829337; and

WHEREAS, the real estate more particularly described in what is attached hereto and incorporated

herein by reference as Exhibit "A" shall hereafter be referred to as the "Real Estate".

WHEREAS, Ditch Road Partners, LLC subsequently acquired portions of the Real Estate and seceded to the rights of Saddle Creek Development Company, LLC as "Declarant" in the Original Declaration, the Restated Declaration, and the First Amendment and, as such, shall hereafter be referred to as Declarant.

WHEREAS, pursuant to this Second Amendment, the Declarant desires to (i) clarify that the Real Estate is subject to the First Amendment and (ii) amend the Restated Declaration.

NOW, THEREFORE, Declarant hereby declares as follows:

1. Restated Declaration. The Restated Declaration is hereby amended as follows:

A) Section 1 of Article IX of the Restated Declaration is hereby deleted, in its entirety, replaced and superseded by the following:

Section 1 Annual Accounting. Annually, after the closing of each fiscal year of the Corporation and prior to the date of the annual meeting of the Corporation, next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each owner a financial statement, which statement shall show all receipts received and all expenses incurred and paid during the preceding fiscal year.

B) The fifth (5th) sentence in Section 2 of Article IX of the Restated Declaration is hereby deleted, in its entirety, and replaced and superceded by the following:

From and after the Applicable Date, the annual budget and Regular Assessment shall, in addition, be established to include the establishment and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of Common Areas, which replacement and reserve funds shall be used for those purposes and not for usual and ordinary expenses of the Common Areas.

C) Subparagraph I (iii) of Section 3 of Article VIII of the Restated Declaration is hereby deleted, in its entirety, and replaced and superseded with the following:

No fences which are parallel or substantially parallel to 136th Street, Ditch Road, and 141st Street may be installed in the rear yards of any Lots which abut 136th Street, Ditch Road, or 141st Street, except by Declarant; provided, however, that the Owners of such Lots may connect a side yard fence to a fence installed by Declarant. Therefore, the only fences that are permitted within any strip of ground shown on the plat as a County Landscape and Utility Easement are (i) fences installed by Declarant and (ii) side

yard fences installed by Owners which are perpendicular to and connect with any fences installed by Declarant. Fences or improvements of any nature are prohibited in the area of any Pedestrian Parkway Easement or Internal Sidewalk System Easement. In all events, and notwithstanding anything herein to the contrary, the only fences, decks, structures and improvements which are permitted on the Real Estate are those which are either installed by Declarant or (i) are approved by the Committee and (ii) do not impair, impede or interrupt the flow of drainage water.

2. Amendment. The Restated Declaration, as amended by the First Amendment and Second Amendment, shall remain in full force and effect and shall be applicable to the Real Estate, which Real Estate is subject to and governed by the Restated Declaration, as amended by the First Amendment and the Second Amendment.

3. Capitalized Terms. Capitalized terms in this Second Amendment shall have the same meaning as such terms are defined in the Restated Declaration, unless stated otherwise herein.

IN WITNESS WHEREOF, Declarant has executed this Second Amendment to the Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, as of the date first written above.

DITCH ROAD PROPERTIES, LLC, an Indiana
limited liability company,

BY: PLATINUM PROPERTIES, LLC,
an Indiana limited liability company, member

By:

Paul Rioux

Paul Rioux, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared *Paul Rioux*, as President of Platinum Properties, LLC, an Indiana limited liability company, member of Ditch Road Properties, LLC, an Indiana limited liability company, and having been duly sworn, acknowledged execution of this Second Amendment to the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Saddle Creek, Carmel, Indiana.

Witness my hand and Notarial Seal this 21ST day of APRIL, 2000.

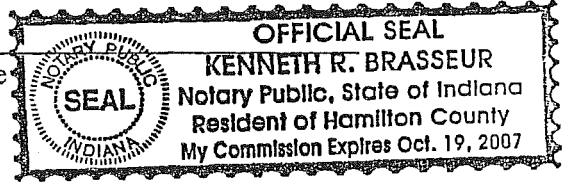
My Commission Expires:
10/19/2007

Kenneth R. Brasseur

Notary Public

Residing in HAMILTON County

Printed Name



Prepared By: **Charles D. Frankenberger**, NELSON & FRANKENBERGER, 3021 East 98th Street, Suite 220, Indianapolis, Indiana 46280 - (317) 844-0106

Exhibit "A"

All of the real estate, common areas, lots, and roads located within the following plats:

(1) Saddle Creek Section 1 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 17th day of October, 1996, as Instrument Number 9609644060, P.C. No. 1, Slide No. 728; (2) Saddle Creek Section 2 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 17th day of October, 1996, as Instrument Number 9644061, P.C. 1, Slide 729; (3) Saddle Creek Section 3 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 22nd day of February, 1999, as Instrument Number 9909911339, P.C. 2, Slide 227; (4) Saddle Creek Section 4 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 22nd day of February, 1999, as Instrument Number 9909911340, P.C. 2, Slide 228; (5) Saddle Creek Section 5 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 26th day of November, 1997, as Instrument Number 9709750987, P.C. 2, Slide 51; and (6) Saddle Creek Section 6 Secondary Plat, recorded with the Recorder of Hamilton County, Indiana on the 1st day of April, 1999, as Instrument Number 9909919786, P.C. 2, Slide 245.

Pizz-
UP-

BY-LAWS

OF

SADDLE CREEK HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND PRINCIPAL OFFICE

Section 1. The name of the corporation is **Saddle Creek Homeowners Association, Inc.** (hereinafter referred to as the "Association").

Section 2. The principal office of the Association shall be located at 123 Village Drive East, Carmel, Indiana 46037, until and unless changed in accordance with law by the Board of Directors.

ARTICLE II

DEFINITIONS

What address is
this

Section 1. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions of Saddle Creek as recorded in the Office of the Recorder of Hamilton County, Indiana, and all subsequent amendments.

Section 2. "Association" shall mean and refer to this corporation, which is also referred to as the "Association" in the Declaration and the "Corporation" in the Articles of Incorporation of this the Association.

Section 4. "Applicable Date" shall mean and refer to the date the Class B membership terminates as specified in Section 5.01(b) of the Articles of Incorporation of this Association.

Section 5. All of the terms as defined and used in the Declaration shall have the same meanings in these By-Laws and reference is specifically made to of the Declaration.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership, Transfer, Voting Rights. Reference is hereby made to the Declaration which sets forth terms, provisions and conditions governing and relating to membership in the Association, transfer of membership and voting rights of classes of members, all of which terms, provisions and conditions are incorporated herein by reference.

Section 2. Quorum. Written notice of any meeting called for the purpose of taking any action

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

Section 3. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary of the Association before the appointed time of each meeting of the members of the Association. Cumulative voting shall not be permitted.

Section 4. Majority Required. A majority of the votes of members present (in person or by proxy) at a meeting at which a quorum is present shall be sufficient for the transaction of all business of the Association except on matters where a greater vote is required by the Declaration, the Articles of Incorporation, the By-Laws or by statute.

Section 5. Meetings. Meetings of the members of the Association shall be in accordance with the following provisions:

A. Place. Meetings of the members shall be held at such place in Hamilton County, Indiana, as may be designated by the Board of Directors of the Association.

B. Annual Meetings. The first annual meeting of the members shall be held within six (6) months after the close of the first fiscal year of the Association, the exact date to be decided by the Board of Directors. At such first annual meeting of the members, the members may designate a regular day or date for successive annual meetings, which date shall be not more than six (6) months after the close of each fiscal year of the Association. If the members fail to designate such a regular day or date, the Board of Directors may continue to designate the day or date of the next annual meeting until such a designation is made by the members. If any designated day or date falls upon a legal holiday, the actual date of the meeting shall be the next business day succeeding such designated day or date.

C. Special Meetings. Special meetings of the members shall be called by the president of the Association, by resolution of the Board of Directors of the Association or upon a written petition signed by members of the Association who are entitled to vote sixty percent (60%) of all votes of the membership. Notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice.

D. Notice of Meetings. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of the membership shall constitute a quorum. If the required quorum is

not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

E. Order of Business. The order of business at all meetings of the members shall, to the extent applicable, be as follows:

1. Roll call.
2. Proof of notice of meeting or waiver of notice.
3. Reading of minutes of preceding meeting.
4. Reports of officers.
5. Reports of committees.
6. Election of directors.
7. Unfinished business.
8. New business.

*Nominating
Committee*

ARTICLE IV

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. The initial Board of Directors, named in Section 6.02 of the Articles of Incorporation of this Association, shall serve as the Board of Directors of the Corporation until the Applicable Date and, in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date, every such vacancy shall be filled by an individual appointed by Declarant. Any such individual appointed by Declarant shall thereafter be deemed a member of the Initial Board. After the Applicable Date, nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting of the members of the Association. The nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two (2) or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors at each annual meeting of the members and shall serve until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made only from among members of the Association, or persons deemed to be members eligible to serve as directors thereof or otherwise eligible to serve on the Board of Directors in accordance with the Declaration and the Articles of Incorporation of the Association.

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

ARTICLE V

BOARD OF DIRECTORS

Section 1. Number and Qualification. The affairs of the Association shall be governed by a Board of Directors composed of three (3) persons.

Section 2. Additional Qualifications. Where an Owner consists of more than one person, or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner or partner, officer or trustee, as the case may be, of the partnership, corporation, trust or other entity, Owner shall be eligible to serve on the Board of Directors of the Association, except that no Lot may be represented on the Board of Directors by more than one person at a time.

Section 3. Initial Board of Directors. The initial Board of Directors named in the Articles of Incorporation (the "Initial Board") shall maintain, manage and administer the affairs and the property of the Association until the Applicable Date as that term is defined in the Articles of Incorporation.

Section 4. Term of Office Generally. At such first annual meeting of the members of the Association, the members required by the Declaration, other provisions of these By-Laws, the Articles of Incorporation, or statute.

Section 5. Duties. The Board of Directors shall have the following duties:

A. To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by members holding twenty-five percent (25%) of the total votes of the membership entitled to vote;

B. To supervise all officers, agents and employees of the Association;

C. To establish the annual assessment period and fix the amount of the annual assessment against each member for each Lot owned, all in accordance with the terms of the Declaration and these By-Laws;

D. To fix the amount of any special assessment against each member for each Lot owned, all in accordance with the terms of the Declaration and these By-Laws;

E. To send written notice of each assessment to each Owner in accordance with the Declaration;

F. To foreclose the Association's lien for assessments against any property for which assessments are not paid within thirty (30) days after the due date thereof or to bring an action at law against the Owner or other person personally obligated to pay the same;

G. To issue, or to cause an appropriate officer to issue, upon demand by any person or entity, a certificate setting forth whether or not any assessment has been paid;

H. To procure and maintain the insurance coverages required by the Declaration and such other insurance coverages as the Board of Directors, in its sole discretion, deems necessary or advisable;

I. To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate, and at least as required by the Declaration; and,

J. To perform the Association's responsibilities as provided in the Declaration.

Section 6. Vacancies. Any vacancy in the Board of Directors shall be filled by vote of the majority of remaining directors, even though they may constitute less than a quorum. Each person so elected shall be a director for the unexpired term of his predecessor, or until his successor is elected.

Section 7. Compensation. No director shall receive compensation for any service he may render to the Association as such director. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties, and any director may be paid and compensated for services to the Association in a capacity other than as a director.

Section 8. Removal of Directors. After the Applicable Date, any director may be removed with or without cause by a majority vote of the members of the Association.

Section 9. Regular Meetings. Regular meetings of the Board of Directors shall be held at such regular intervals, without notice, at such place and hour as may be determined from time to time by resolution of the Board of Directors. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 10. Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) days' notice to each director, given personally, by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two-thirds (2/3) of the directors.

Section 11. Waiver of Notice. Before or at any meeting of the Board of Directors, any director may, in writing, waive notice of such meeting and such waiver shall be deemed equivalent of the giving of such notice. Attendance by a director at any meeting of the Board of Directors shall be deemed a waiver of notice by him of the time and place thereof. If all the directors are present at any meeting of the board, no notice shall be required and any business may be transacted at such meeting.

Section 12. Quorum. At all meetings of the Board of Directors, a majority of the directors shall constitute a quorum for the transaction of business, and the acts of the majority of the directors

present at a meeting at which quorum is present shall be the acts of the Board of Directors except as otherwise provided in or required by the Declaration, Articles of Incorporation, these By-Laws or statute. If, at any meeting of the Board of Directors, there shall be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 13. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE VI

OFFICERS AND THEIR DUTIES

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

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

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

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

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

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

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

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

A. President. The President shall preside at all meetings of the Board of Directors. He shall see that orders and resolutions of the Board are carried out. He shall have the power to appoint committees from among the members of the Association from time to time as he may in his discretion deem appropriate to assist in conducting the affairs of the Association. The President shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an Association or a stock corporation organized under the laws of the State of Indiana.

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

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

D. Treasurer. The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLE VII

COMMITTEES

The Board of Directors shall appoint the committees provided for in the Declaration and the Nominating Committee referred to in Article IV of these By-Laws. In addition, the Board of Directors or the President may appoint various other committees to carry out the purposes of the Association. Except as otherwise expressly provided in Article IV of these By-Laws with respect to the Nominating Committee, members of such committees may, but need not, be members of the Board of Directors.

ARTICLE VIII

BOOKS OF ACCOUNT AND FISCAL YEAR

Section 1. Books of Account. The Association shall keep detailed books of account showing

all expenditures and receipt of administration which shall specify the maintenance and repair expenses of the Common Areas and the Lake Easement, Landscape Easement, Drainage Easement and Utility Easement Areas and any other expenses incurred by or on behalf of the Association and the members. Such accounts, books, records, financial statements, and other papers of the Association shall be open for inspection by the members and other persons having an interest in any Lot, including any Owner, any lender and any holds, insurer or guarantor of the first mortgage on any Lot, during reasonable business hours or under other reasonable circumstances and shall be audited annually by qualified auditors. The cost of such audits shall be a Common Expense. Any holder, insurer or guarantor of a first mortgage on a Lot shall be entitled upon written request to receive an audited financial statement for the immediately preceding fiscal year free of charge to the requesting party and within a reasonable time of such request. Current copies of the Declaration, the Articles of Incorporation, and the By-Laws of the Association, and other rules concerning the real Estate, shall be available for inspection by any Owner and lender, and to holders, insurers or guarantors of any first mortgage at the principal office of the Association during normal business hours or under other reasonable circumstances, where copies of the same and of audits may be purchased at reasonable costs.

Section 2. Fiscal Year. The fiscal year of the Association shall commence January 1, and end the following December 31 each year; provided, however, that the fiscal year for purposes of assessments may be different than the general fiscal year of the Association.

ARTICLE IX

CONTRACTS, LOANS & CHECKS

Section 1. Authorization. The Board of Directors may authorize any officer or officers or agent or agents of the Association to enter into any contract or execute any instrument on its behalf. Such authorization may be general or confined to specific instances. Except as provided in these By-Laws, no officer, agent or employee shall have any power to bind the Association or to render it liable for any purpose or amount unless so authorized by the Board of Directors.

Section 2. Checks. All checks, drafts, or other orders for payment of money by the Association shall be signed by the President, Secretary, Treasurer or such other person as the Board of Directors may from time to time designate by resolution.

ARTICLE X

AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members of the Association, by a vote of a majority of a quorum of members present in person or by proxy;

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

CROSS-REFERENCES: (1) Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, recorded with the Recorder of Hamilton County, Indiana, on the 17th day of October, 1996, as Instrument Number 9609644059; (2) Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, recorded with the Recorder of Hamilton County, Indiana on the 6th day of June, 1997, as Instrument Number 9709722316; (3) First Amendment to the Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana, recorded with the Recorder of Hamilton County, Indiana on the 2nd day of June, 1998, as Instrument Number 9809829337.

**DECLARATION
OF
EXPANSION**

200100043026
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
07-13-2001 03:27 pm.
MISC 16.00

This Declaration of Expansion is made the 9th day of July, 2001, by Ditch Road Properties, LLC ("Declarant") the developer of the residential subdivision in Clay Township, Hamilton County, Indiana known as Saddle Creek:

WITNESSETH:

WHEREAS, the Declaration of Covenants and Restrictions of Saddle Creek was recorded on October 17, 1996 in the Office of the Recorder of Hamilton County, Indiana, as Instrument Number 96096444059 ("Original Declaration").

WHEREAS, the Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek was recorded on June 6, 1997 in the Office of the Recorder of Hamilton County, Indiana as Instrument Number 9709722316 ("Restated Declaration").

WHEREAS, the First Amendment to the Restated Declaration was recorded on June 2, 1998 in the Office of the Recorder of Hamilton County, Indiana, as Instrument Number 9809829337.

WHEREAS, Declarant is the successor in interest to the rights, duties and obligations of Saddle Creed Development Co., Inc. as the Declarant under the Restated Declaration.

WHEREAS, Declarant is the fee simple owner of the real estate in Hamilton County, Indiana, and described in Exhibit "A" (Additional Real Estate).

WHEREAS, Declarant is desirous of expanding Saddle Creek by the addition of the Additional Real Estate and provided for two (2) additional sections, Saddle Creek - Section 11, and Saddle Creek, Section 12.

NOW THEREFORE, Declarant hereby declares that the Additional Real Estate is and shall be annexed to and become a part of Saddle Creek and shall be held transferred, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied, subject to the terms, conditions and restrictions of the Restated Declaration, as amended from time to time.

IN WITNESS WHEREOF, Ditch Road Properties, LLC, Declarant herein has executed this Declaration of Expansion on the day and year first written above.

DECLARANT:

DITCH ROAD PROPERTIES, LLC

By: Paul F. Rioux, Jr.
Paul F. Rioux, Jr., President

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

Before me, a Notary Public, in and for said County and State, personally appeared *Paul F. Rioux, Jr.*, President of Ditch Road Properties, LLC, as the Declarant herein, and acknowledged the execution of the foregoing Declaration of Expansion this 9th day of July, 2001.

My Commission Expires: Nov. 11, 2007

[Signature]
Notary Public

Residing in HAMILTON County

TIMOTHY J. WALTER
Printed Name

This Instrument Prepared by: James J. Nelson, Nelson & Frankenberger, 3021 E. 98th Street, Suite 220, Indianapolis, IN 46280 - (317) 844-0106

EXHIBIT A

LAND DESCRIPTION 61.468 ACRE PARCEL

Part of the West Half of the Northwest Quarter of Section Twenty-one (21), Township Eighteen (18) North, Range Three (3) East of the Second Principal Meridian in Hamilton County, Indiana more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section and running South 00°00'00" West (the bearings of this description are based on an assumed system in which the West line of said Half Quarter Section runs South 00°00'00" West) on and along the West line of said Half Quarter Section 644.49 feet to the Point of Beginning of this description; thence South 89°57'35" East parallel with the North line of said Half Quarter Section 1350.76 feet to the East line thereof; thence South 00°10'42" West on and along said East line of said Half Quarter Section 1986.02 feet to the Southeast corner thereof; thence South 89°58'23" West on and along the South line of said Half Quarter Section 1344.58 feet to the Southwest corner thereof; thence North 00°00'00" East on and along the West line of said Half Quarter Section 1987.59 feet to the Point of Beginning, containing 61.468 acres, more or less, subject to easements, rights-of-way, and restrictions.

COPY

Instrument
9709722317

AMENDED AND RESTATED
PLAT COVENANTS
SADDLE CREEK SECTION ONE
AND SECTION TWO

9709722317
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
On 06-06-1997 At 03:32 pm.
AMEND DECL 29.00

The undersigned, SADDLE CREEK DEVELOPMENT COMPANY, an Indiana corporation (the "Developer"), being the owner of all of the Lots, Lots 1 through 34, of Section One of Saddle Creek according to the Plat thereof recorded on October 17, 1996 in the Office of the Recorder of Hamilton County, Indiana as Instruments No. 9644060 ("Section One Plat") and all of the Lots, Lots 35-65, at Section Two of Saddle Creek according to the Plat thereof recorded October 17, 1996 in the Office of the Recorder of Hamilton County, Indiana as Instrument No. 96-44061 ("Section Two Plat") (Section One Plat and Section Two Plat shall hereinafter be referred to collectively as the "Plat"), hereby amends and restates the Plat Restrictions attached to the Plat pursuant to this Amended and Restated Plat Covenants for Saddle Creek Section One and Section Two ("Amended Plat Covenants"). These Amended Plat Covenants shall supersede and replace in its entirety the Plat Covenants attached to the Plat, and such Plat Covenants, which were attached to the Plat, are extinguished and of no further force or effect.

The Developer, the owner of the real estate shown and described herein hereby certifies that it has laid off, platted and subdivided, and does hereby lay off, plat and subdivide, said real estate in accordance with the Plat and certificate attached thereto. This subdivision shall be known and designated as Saddle Creek, an addition in Hamilton County, Indiana. In addition to the covenants and restrictions hereinafter set forth, the real estate described in the Plat is also subject to certain additional covenants and restrictions contained in that certain Declaration of Covenants and Restrictions of Saddle Creek, recorded on the 17th Day of October, 1996, as Instrument No. 96096444059, as amended and restated by the Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, recorded contemporaneously with these Amended Plat Covenants in the Office of the Recorder of Hamilton County, Indiana (the "Declaration"), and to the rights, powers, duties and obligations of the Saddle Creek Homeowners Association, Inc. (the "Homeowners Association") and the Saddle Creek Building Control Committee (the "Committee") as set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained in this Amended Plat Covenants and the Plat, and any of the covenants and restrictions contained in the Declaration, the conflicting covenant or restriction contained in this Amended Plat Covenants and the Plat shall govern and control to the extent only of the irreconcilable conflict, it being the intent hereof that all such covenants and restrictions shall be applicable to said real estate to the greatest extent possible. All of the terms, provisions, covenants, conditions and restrictions contained in the Declaration are hereby incorporated herein by reference. In order to provide adequate protection to all present and future owners of lots in this subdivision, the following covenants, restrictions and limitations, in addition to those set forth in the Declaration, are hereby imposed upon and shall run with the land included in this subdivision and shall be binding upon the Developer and anyone at anytime owning any part or portion of such land.

1. The rights-of-way of all streets as shown on the within plat, if not heretofore dedicated, are hereby dedicated to the public

2. There are strips and areas of ground as shown on the within plat marked or referred to as;

- (i) "Drainage Easements" or "D.E.", and as
- (ii) "Utility Easements" or "U.E.", and as
- (iii) "Lake Maintenance Easements" or "L.M.E.", and as
- (iv) "Landscaping Easements", or "L.S.E.", and as
- (v) "Non Access Easements" or "N.A.E.", and as
- (vi) "County Landscape & Utility Easement", or "C.L. & U.E.", and as
- (vii) "Pedestrian Parkway Easements" or "P.P.E." and as
- (viii) "Rearyard Landscape Easements" or "R.L.E." and as
- (ix) "Internal Sidewalk System Easements" or "I.S.S.E.'s", either separately or in combination of the same.

All of the foregoing Easements and the strips and areas of ground affected thereby are hereby subjected to easements, which are hereby created and reserved, for the use of the public utility companies, governmental agencies, the Developer, the Homeowners Association and others, as follows:

- (A) "Drainage Easements", or "D.E.'s", are created to provide paths and courses and a system for natural area and local storm drainage, either overland or in appropriate underground installations, to serve the needs of this and adjoining ground and/or public drainage system, and the owners of lots are and shall be required to keep then natural drainage free of obstructions, whether they be structures or plant material, so that the flow of water be unimpeded;
- (B) "Utility Easements", or "U.E.'s", are created for the use of all public utility companies, including cable television companies, but not including transportation companies for the installation and maintenance of underground mains, ducts, drains, lines, wires and other utility installations for the purpose of furnishing utility services; no permanent structures (except walls, fences, driveways and walks, to the extent permitted hereby or by the Declaration) are to be erected or maintained upon said Utility Easements;
- (C) "Lake Maintenance Easements", or "L.M.E.'s", are created for the use of Developer and the Homeowners Association for the installation, construction and maintenance of lakes or ponds as part of the drainage system serving this subdivision and shall constitute Drainage Easements in their entirety; in addition, Lake Maintenance Easements, and all installations therein, shall constitute "Common Area" as defined and referred to in the Declaration;
- (D) "Landscaping Easements", or "L.S.E.'s", are created and reserved for the use of the Developer and the Homeowners Associations for the installation, maintenance, repair and replacement of mounds, landscaping and other plant material (including, without limitation, trees, shrubs, other plantings, walls and fences), street signs or directories, sculptures, works of art, fountains, entry ways, landscape irrigation systems, accent lighting systems, subdivision identification signs and other items; such Landscaping

Easements shall constitute easements, over, upon and across the lots affected thereby as shown on the within plat; except as installed and maintained by Developer and the Homeowners Association, no permanent or other structures, including fences or walls, or additional landscaping shall be erected or maintained on said Landscaping Easements, and the owners of said lots affected thereby shall not do or permit to be done anything which will obstruct or interfere with any installations made by the Developers or the Homeowners Association in said Landscaping Easements;

- (E) "Non-Access Easements", or "N.A.E.'s", are created to preclude access from certain of the lots over the portions thereof to the abutting street right-of-way adjacent thereto as indicated on the within plat; and
- (F) "County Landscape & Utility Easement", or C.L. & U.E.'s are created and reserved for the use of all public utility companies, including cable television companies, but not including transportation companies, for the installation and maintenance of underground mains, ducts, drains, lines, wires and other utility services; this easement is also created and reserved for use of the Developer and the Homeowners Association for the installation, maintenance, repair and replacement of flowers and ground cover including grass; no structures, trees, earth mounds, fences or driveways are to be erected or maintained upon said C.L. & U.E.'s; such C.L. & U.E.'s shall constitute easements over, under, upon and across the lots affected thereby as shown on the plat; except as installed and maintained by Developer and the Homeowners Association, no structures, including fences and walls, or additional landscaping shall be erected or maintained on said C.L. & U.E.'s, and the owners of said lots affected thereby shall not do or interfere with any installations made by the Developer, Utility Companies or the Homeowners Association in said C.L. & U.E.'s.
- (G) "Pedestrian Parkway Easements", or "P.P.E.'s" are created and reserved for the Homeowners Association, its members, guest, and invites, for and only for pedestrians, which may include the use of non-motorized modes of transportation such as bicycles, roller skates, strollers, skateboards, tricycles or children's wagons. Mopeds, go-carts and motorized scooters are strictly prohibited. The Saddle Creek Homeowners Association hereby grants as its guest, the general public, to full use of these Pedestrian Parkway Easements for their enjoyment, as regulated by the rules and regulations as set forth from time to time by the Board of Directors of the Saddle Creek Homeowners Association;
- (H) "Rearyard Landscape Easements" or "R.Y.E.'s" are created and reserved for the Developer for the installation, repair and replacement of mounds, landscaping and other plant material (including without limitation trees, shrubs and other plantings); except for a portion of the home to be constructed on Lot 34, which encroachment shall be approved by Developer, fences, walks, patios, porches, decks, and additional landscaping material and gardens, to the extent permitted hereby or by the Declaration, no permanent structures are to be erected or maintained upon said Rearyard Easements; and

- (D) "Internal Sidewalk System Easements" or "I.S.S.E's" are created and reserved for the Saddle Creek Homeowners Association for the installation, maintenance, repair and replacement of sidewalks; for the common use and enjoyment of its members, guests, and invites, for and only for a pedestrian walkway in this addition and other additions of Saddle Creek subdivision and shall be exclusively managed by the Saddle Creek Homeowners Association; such Internal Sidewalk System Easement constitute easements, over, upon and across the Lots affected thereby as shown on the within plat; except as installed and maintained by the Developer and the Homeowners Association, no permanent or other structures or landscaping shall be erected or maintained on said Internal Sidewalk System Easements, and owners of said lots affected thereby shall not do or permit to be done anything which will obstruct or interfere with any installations or use by the Developer or the Homeowners Association in said Internal Sidewalk System Easement.

The owners of all lots in this subdivision shall take and hold title to their lots subject to all of the foregoing Easements, to the rights of the public utility companies, governmental agencies, the Developer, the Homeowners Association and others therein (which rights also include the right of ingress and egress in, along, across and through said Easements), to the jurisdiction of the proper authorities and to the easements herein granted and reserved.

3. "Building Setback Lines" (sometimes noted herein as "B.S.L.") are hereby established as shown on this plat, between which lines and the property lines of the lots closest thereto shall be erected or maintained no building or structure.

4. Unless and except to the extent otherwise designated by the Developer, all lots in this Subdivision shall be used solely for residential purposes, unless alternative uses, such as Permitted home occupations, are consented to by the Homeowners Association and are permitted under applicable zoning laws. No structure shall be erected, altered, placed or permitted to remain on any residential lot herein, other than one detached single-family dwelling, an attached private garage for not less than two cars, and residential amenities accessory thereto. No portion of any lot may be sold or subdivided so that there will be thereby created a greater number of lots than the original number platted.

5. The finished and liveable ground floor of each dwelling constructed on a lot, exclusive of porches, terraces, garages, accessory buildings and basements, shall not be less than 2,000 square feet in the case of one-story structure, nor less than 1,000 square feet in the case of a multiple story structure, provided no structure of more than one story shall have less than an aggregate of 2,100 Square feet of finished and liveable floor area.

6. No construction vehicles, shacks or outhouses shall be erected or situated on any lot herein, except for use by a builder during the construction of a proper structure, which builder's temporary construction structure shall be promptly removed upon completion of the proper structure.

7. All motor vehicles belonging to members of a household shall have permanent parking spaces in garages or driveways and no disabled vehicle shall be openly stored on any residential lot or parked overnight on any street in the subdivision. Also, no truck (except pick-up trucks), boat, trailer, camper, or motor home of any kind (including, but not in limitation thereof, house trailers, camper trailers, or boat trailers) shall be kept or parked upon said lot except if kept from view of neighboring residences and streets by being in a garage.

8. No advertising signs (except one of not more than six (6) square feet designating "For Rent" or "For Sale" per lot), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any lot, except lots used as model lots by an owner which then owns two or more lots.

9. All clothes lines, equipment, garbage cans, service yards, wood piles or storage piles shall be kept from view of neighboring residences and streets. All rubbish, trash or garbage stored outside any residence shall not be allowed to accumulate thereon. All clothes lines shall be confined to patio areas.

10. It shall be the duty of the owner of each lot in the subdivision to keep the grass on his lot properly cut and to keep the lot free of weeds and trash and otherwise neat and attractive in appearance, including, without limitation, the proper maintenance of the exterior of any structures on such lot. In the event the owner of any lot fails to do so in a manner satisfactory to the Homeowners Association, the Homeowners Association shall have the right (but not the obligation) through its agents and employees, to enter upon said lot and to repair, maintain and restore the lot and the exterior of the improvements erected thereon. The cost of such exterior maintenance shall be and constitute a special assessment against such lot and owner thereof to be assessed, collected and enforced as provided in the Declaration.

11. The Homeowners Association may make assessments to cover any costs incurred in enforcing these covenants or in undertaking any maintenance or other activity which is the responsibility of the Homeowners Association or of a lot owner hereunder or under the Declaration, but which such lot owner has not undertaken as required hereunder or under the Declaration. Any such assessment shall be assessed only against those lot owners whose failure to comply with the requirements of the covenants hereunder and under the Declaration necessitated the action to enforce such covenants or the undertaking of the maintenance or other activity.

12. No farm animals or fowl of any kind, nor domestic animals for commercial purposes, shall be kept or permitted on any lot or lots in this subdivision at any time.

13. No noxious, unlawful, or otherwise offensive activity shall be carried out on any lot in this subdivision, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood in the opinion of the Developer or the Homeowners Association.

14. No private, or semi-private, water supply and/or sewage disposal system may be located upon any lot in this subdivision which is not in compliance with regulations or procedures as provided by the applicable public health agencies, or other civil authority having jurisdiction, and as

Handwritten:
LAWYER
13834
MAN. SWAL

approved by the Committee. No septic tank, absorption field or any other method of sewage disposal shall be located or constructed on any lot or lots herein except as approved by said health authority and the Committee.

15. No construction shall be commenced nor shall any building, structure or other improvements (including, without limitation, fences) be erected, placed or altered on any lot in this subdivision until the building plans, specifications and plot plan showing the location of such construction have been approved as to the compatibility of the same with existing structures and with intent of these covenants and those set forth in the Declaration, by the Committee, in accordance with the procedures for such approval contained in the Declaration and all rules, regulations and guidelines adopted by the Committee. If the Committee fails to act upon any plans submitted to it for its approval within a period of fifteen (15) days from the submission date of the same, it shall be deemed that the Committee has disapproved such plans. Neither the Committee nor any of its members shall be entitled to any compensation for services performed pursuant to this covenant or in performing any of its duties or obligations set forth in the Declaration.

16. No wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 5 feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points 25 feet from the intersection of said street lines, or in the case of a rounded property corner from the intersection of the street lines extended. The same sight line limitations shall apply to any lot within 10 feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections, or in medians, unless the foliage line is maintained at a height of 5 feet or greater to prevent obstruction of such sight lines.

17. Except to the extent any portion or portions of the drainage system for the subdivision are established as legal drains subject to the jurisdiction of the Hamilton County Drainage Board and maintained by it, the Homeowners Association, in accordance with the terms of the Declaration, but subject to the obligations of the individual lot owners to keep "Drainage Easements" free of obstructions so that the flow of water will be unimpeded, shall maintain the storm drainage system for the subdivision and, for such purposes, shall have as easement over all portions of the subdivision used as part of such storm drainage system. Such maintenance by the Homeowners Association shall, to the extent necessary, include the maintenance of all inlet pipes, open ditches, pipes, swales, lakes and lake banks. The costs and expenses of such maintenance of the storm drainage system (including the lakes or ponds located or to be located in the Lake Maintenance Easements shown on this plat) shall be assessed as part of the general assessment against the owners of all lots in this subdivision as provided in the Declaration, and such assessments shall be secured by the lien for the same as provided in the Declaration. Sump pumps, gravity drains and other drains serving individual residences on lots shall not outfall or empty onto grass swales between lots, but only into a storm sewer or an underground drain pipe connecting to a storm sewer, included in the storm drainage system for the subdivision; provided, however, that sump pumps, gravity drains, and other drains serving lots which are adjacent to a lake or pond located in a Lake Maintenance Easement shown on this plat may outfall and empty through underground drain pipes directly into said adjacent lake or pond at a level not higher than the normal pool elevation of said lake or pond.

18. There shall be street lights installed throughout this addition and other additions in Saddle Creek subdivision by Public Service Indiana and leased to the Homeowners Association which will be considered a Common Expense.

19. Each house shall be furnished with an attached garage for a minimum of two (2) cars.

20. All houses and garages shall be provided with hardsurfaced driveways, constructed of concrete materials, which shall be installed by the builder concurrently with the original construction of the house, and which shall be available for use not later than the date of initial occupancy of such house. Further, it shall be the obligation and responsibility of the owner of each lot to install, or cause his builder to install, sidewalks in accordance with the requirements and standards of the Subdivision Control Ordinance of Carmel, Indiana along (and within the right-of-way of) all interior streets in this subdivision upon which such owner's lot abuts (i.e., along all streets shown on this plat except for 136th Street, 141st Street, and Ditch Road. Weather permitting, such sidewalks shall be installed by the owner or builder concurrently with the original construction of the house on a lot, and shall be fully completed and available for use not later than the date of initial occupancy of such house. If such sidewalks cannot be installed concurrently with the original construction of the house on a lot, such sidewalks shall be installed as soon as reasonably practicable after the weather permits such installation.

21. The front yards of all homes must be landscaped with a minimum of thirty (30) shrubs and plants (exclusive of required front yard trees). Each lot must have at least two (2) shade trees and one (1) flowering tree planted and installed in the front yard of such lot, and such additional trees as may be required by the Committee in the case of a lot with frontage on two (2) street rights-of-way, all of such species and variety and planted at such locations as may be designated or approved by the Committee. In addition, the front yards of each lot shall be sodded or (hydroseeded, if an irrigation is installed prior to seeding) from the front lot line (or lines) of the lot to the front line of principal residence erected on such lot. All such landscaping shall be installed by the builder concurrently with the original construction of the principal residence on each lot, and shall be installed not later than the date of initial occupancy of such residence; provided, however, that if such construction is completed or such initial occupancy occurs between November 1 of any year and March 31 next following, the installation of such landscaping may be delayed but shall, in any event, be completed not later than the following May 1st. All improved lots shall be kept mowed, free of weeds and refuse, and any landscaping thereon (such as trees, shrubs and bushes) shall be kept trimmed and pruned by the owners of such lots. All unimproved lots shall be kept mowed (minimum of once every 3 weeks) and free of refuse on a weekly basis by the owner thereof.

22. No heat pumps, air-conditioning units, gas meters or other similar outlying structures or appurtenances shall be installed in front of the front line of the principal residence erected on any lot. Architectural or landscaped screens shall be constructed or provided to shield the aforementioned items from view from the street and from adjacent properties.

23. Each residence shall be provided with a mailbox and mailbox post to be furnished and installed by the builder concurrently with the original construction of the principal residence on each lot, and prior to the date of initial occupancy of such residence. All mailboxes shall be of the same

color and design in accordance with a standard mailbox design prepared by the Committee. Unless specific written approval is given by the Committee, no names, designs or other ornamentation shall be placed on any mailboxes or their supporting posts or structures other than street address numbers.

24. During, and at the conclusion of, the period of any construction activity on a lot, the builder performing such construction shall be required to keep his construction activity confined to such lot and shall keep all streets adjacent to such lot free of materials and debris and in a clean state. Without limiting the foregoing general requirement, a builder shall clean such adjacent streets within twelve (12) hours of any specific request therefor made by the Committee or the Developer.

25. The construction or placement on any lot of tennis courts, fences, walls, patios, decks, swimming pools, hot tubs or like facilities must be approved in writing by the Committee.

26. No exposed satellite receiving, television, radio or other antennas (including, without limitation, satellite receiving dishes measuring larger than 28" in diameter or taller than 28") shall be allowed or permitted on the exterior of any building or on any lot.

27. All household pets otherwise permitted hereunder shall be kept on a leash when not within the confines of the lot of the owner of such pet. Owners shall be required to control their pets so that they are not and do not become a nuisance to the neighborhood, including, without limitation, noise produced by such pets. Owners are not to allow their pets to relieve themselves other than on the lot owned by the owners of such pets.

28. In addition to any other restrictions applicable to the same set forth herein, no fencing, wall, hedge or shrub shall be permitted between the front property line or lines of a lot and the front Building Setback Lines of such lot which exceeds 18 inches in height, except when the same is part of the perimeter landscaping of the residence and begins within four feet of the residence. Except as installed and maintained by the Developer or Homeowners Association, no fence shall be erected or maintained on or within any Landscaping Easement, Lake Maintenance Easement or Internal Sidewalk System Easement shown on this plat. No fence of any type or kind may be erected on a lot without the prior written approval of the Committee, which may adopt and establish further requirements and restrictions with respect to fences, including, without limitation, limitations on the installation of fences, or certain types of fences, in the adjacent yard of any lot abutting 136th Street or 141st Street or Ditch Road or abutting any of the lakes or ponds installed or to be installed in any Lake Maintenance Easement shown on the plat or on the plat of the Saddle Creek addition, whether heretofore or hereafter recorded.

29. All structures erected or placed on any lot in this subdivision shall be constructed and built of and with substantially all new materials, and no used structures shall be relocated to or placed upon any such lot.

30. Every tank for storage of fuel that is installed outside of the principal residence or other structure on a lot shall be buried below the surface of the ground.

31. No owner of any lot in this subdivision shall have the right to remonstrate against annexation of said lot to the City of Cannel, Indiana.

32. No outbuildings, or buildings detached from the principal residence located on a lot, shall be erected or maintained on any lot in this subdivision, including, without limitation, minibarns.

33. If the parties hereto, or any of them, or their heirs or assigns, shall violate or attempt to violate any of these covenants, restrictions, provisions or conditions herein, it shall be lawful for the Homeowners Association, the Committee (as to matters for which it has responsibility) or any other person owning real property situated in this subdivision or in any other Sections of the Saddle Creek addition (whether heretofore or hereafter recorded) to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, either to prevent him or them from doing so, or to recover damages or other dues for such violation, or to require the removal of structures erected on violation hereof.

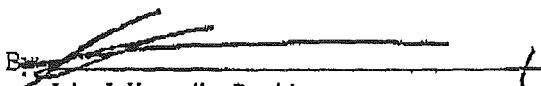
34. These covenants are to run with the land, and shall be binding on all parties and all persons claiming under them until January 1, 2025, at which time said covenants shall be automatically extended for successive periods of ten (10) years each, unless by a vote of a super majority (seventy-five percent 75% or more) of the then owners of the lots in this subdivision and in other Sections of Saddle Creek addition (whether heretofore or hereafter recorded) it is agreed to change (or terminate) said covenants in whole or in part; provided however, that no change or termination of said covenants shall affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent hereto. The right of enforcement of these covenants is hereby granted to the Cannel Clay Plan Commission, its successors or assigns, in addition to all other persons and parties having the right to enforce the same.

35. Invalidation of any of the forgoing covenants, provisions, restrictions or conditions by judgement of court order shall in no way affect any of the other provisions, which shall remain in full force and effect, and every one of the covenants, provisions, restrictions and conditions contained herein is hereby declared to be independent of, and severable from, the rest of the same.

IN WITNESS WHEREOF, Developer has executed this Amended and Restated Plat Covenants, Saddle Creek Section One and Section Two this 30th day of May, 1997.

"DEVELOPER"

SADDLE CREEK DEVELOPMENT
COMPANY, an Indiana corporation


John J. Kennelly, President

STATE OF INDIANA)
) SS:
COUNTY OF Hamilton)

Before me, a Notary Public in and for said County and State, personally appeared John J. Kennelly, the President of Saddle Creek Development Company, and acknowledged the execution of the foregoing Amended and Restated Plat Covenants Saddle Creek, Section One and Section Two as such officer acting for and on behalf of said corporation.

WITNESS my hand and Notarial Seal this 6th day of June, 1997.

Signature *Donald N. Schneider*
Printed Donald N. Schneider
NOTARY PUBLIC

My Commission Expires:
6/5/98

County of Residence:
MADISON

This instrument was prepared by Timothy E. Ochs, ICE MILLER DONADIO & RYAN, One American Square, Box 82001, Indianapolis, Indiana 46282; Telephone: (317) 236-2100.
1421111

COPY FIRST AMENDMENT TO THE AMENDED AND RESTATED
DECLARATION OF COVENANTS AND RESTRICTIONS
OF SADDLE CREEK
CARMEL, INDIANA

This First Amendment To The Amended and Restated Declaration of Covenants and Restrictions of Saddle Creek, Carmel, Indiana ("Amendment"), is made as of the 12th day of September, 1997, by Saddle Creek Development Company, Inc., an Indiana corporation (the "Declarant"),

WITNESSETH:

WHEREAS, the Declarant is the fee simple owner of at least seventy-five percent (75%) of the platted lots on the parcels of real estate located in Hamilton County, Indiana, which are more particularly described in Exhibit "A", attached hereto and hereby incorporated herein by reference (hereinafter referred to, collectively, as the "Real Estate"); and

WHEREAS, Declarant executed the Declaration of Covenants and Restrictions, Saddle Creek, Carmel, Indiana on October 11, 1996 (the "Original Declaration"), which Original Declaration was recorded on October 17, 1996 in the Office of the Recorder of Hamilton County, Indiana as Instrument Number 96096444059.

WHEREAS, Declarant executed the Amended and Restated Declaration of Covenants and Restrictions, Saddle Creek, Carmel, Indiana on JUNE 6th, 1997 (the "Restated Declaration"), which Restated Declaration was recorded on June 6, 1997 in the Office of the Recorder of Hamilton County, Indiana as Instrument Number 9709722316.

WHEREAS, Declarant desires to amend the Restated Declarations pursuant to this Amendment.

NOW THEREFORE, Declarant hereby declares that the Restated Declaration is amended as follows:

1. Article III, Section 1(d)(i) is hereby deleted
2. Article VIII, Section 3(1)(ii) is hereby deleted and replaced with the following:

The material and style used for rear yard or sideyard fences or screening structures on all Lots shall be ornamental iron or aluminum, and black in color; provided, however, that the Committee may approve or deny, in its sole discretion, any other material and style of fence or screening structures. Hidden electronic fencing is allowed on any Lot. Portable or modular kennel or kennel systems shall not be allowed on any Lot.

SADDLE CREEK SUBDIVISION

LEGAL DESCRIPTION
Real Estate - Exhibit "A"Parcel 1

A part of the East Half of the Southeast Quarter of Section 21, Township 18 North, Range 3 East in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of said East Half; thence South 89 degrees 16 minutes 11 seconds West along the South line of said East Half 550.80 feet; thence North 00 degrees 43 minutes 49 seconds West 240.00 feet; thence North 89 degrees 16 minutes 11 seconds East 2395 feet; thence North 00 degrees 43 minutes 49 seconds West 22856 feet; thence South 45 degrees 31 minutes 49 seconds West 142.56 feet; thence South 89 degrees 16 minutes 11 seconds West 309.00 feet; thence North 48 degrees 58 minutes 24 seconds West 70.41 feet; thence North 00 degrees 08 minutes 43 seconds West 764.92 feet; thence North 88 degrees 58 minutes 07 seconds West 19.07 feet; thence North 52 degrees 14 minutes 27 seconds West 165.35 feet to a curve having radius of 225.00 feet, the radius point of which bears South 52 degrees 14 minutes 27 seconds East; thence along said curve 50.61 feet to a point which bears North 39 degrees 21 minutes 12 seconds West from said radius point; thence South 89 degrees 51 minutes 17 seconds West 227.77 feet to the West line of said East Half; thence North 00 degrees 08 minutes 43 seconds West along said West line of the East Half 359.19 feet; thence North 89 degrees 51 minutes 17 seconds East 80.92 feet; thence North 77 degrees 08 minutes 27 seconds East 111.08 feet; thence South 70 degrees 41 minutes 28 seconds East 98.17 feet; thence South 29 degrees 50 minutes 51 seconds East 141.44 feet; thence South 46 degrees 49 minutes 57 seconds East 55.56 feet; thence South 89 degrees 10 minutes 10 seconds East 73.12 feet; thence South 58 degrees 55 minutes 57 seconds East 188.53 feet; thence South 31 degrees 04 minutes 03 seconds West 9.40 feet; thence South 58 degrees 55 minutes 57 seconds East 140.08 feet; thence North 50 degrees 45 minutes 21 seconds East 117.94 feet; thence South 38 degrees 52 minutes 45 seconds East 96.51 feet; thence South 35 degrees 30 minutes 25 seconds East 96.51 feet; thence South 32 degrees 08 minutes 04 seconds East 96.51 feet; thence South 28 degrees 51 minutes 08 seconds East 91.37 feet; thence South 25 degrees 40 minutes 19 seconds East 90.66 feet; thence South 21 degrees 16 minutes 23 seconds East 161.09 feet; thence South 89 degrees 58 minutes 42 seconds East 198.50 feet to the East line of said East Half; thence South 00 degrees 01 minutes 18 seconds West along the East line of said East Half 845.89 feet to the point of beginning, containing 27.346 Acres, more or less.

Parcel 2

A part of the East Half of the Southeast Quarter of Section 21, Township 18 North, Range 3 East in Clay Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of said East Half; thence South 89 degrees 16 minutes 11 seconds West along the South line of said East Half 550.80 feet to the point of beginning; thence North 00 degrees 43 minutes 49 seconds West 240.00 feet; thence North 89 degrees 16 minutes 17

seconds East 2395 feet; thence North 00 degrees 43 minutes 49 seconds West 228.56 feet; thence South 45 degrees 31 minutes 49 seconds West 142.56 feet; thence South 89 degrees 16 minutes 11 seconds West 309.00 feet; thence North 48 degrees 58 minutes 24 seconds West 70.41 feet; thence North 00 degrees 08 minutes 43 seconds West 764.92 feet; thence North 88 degrees 58 minutes 07 seconds West 19.07 feet; thence North 52 degrees 14 minutes 27 seconds West 165.35 feet to a curve having radius of 225.00 feet, the radius point of which bears South 52 degrees 14 minutes 27 seconds East; thence along said curve 50.61 feet to a point which bears North 39 degrees 21 minutes 12 seconds West from said radius point; thence South 89 degrees 51 minutes 17 seconds West 227.77 feet to the West line of said East Half; thence South 00 degrees 08 minutes 43 seconds East along said West line of the East Half 1323.41 feet to the Southwest corner of said East Half; thence North 89 degrees 16 minutes 11 seconds East along the South line of said East Half 798 85 feet to the point of beginning containing 14 049 acres, more or less.

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SADDLE CREEK HOMEOWNERS ASSOCIATION, INC.
9551 DELEGATE'S ROW
INDIANAPOLIS, IN 46240

November 23, 1999

Dear Homeowner:

This letter is to update you on a few issues regarding your Homeowners Association.

Effective January 1, 2000, Saddle Creek will no longer be managed by Revel and Underwood. Platinum Properties, LLC will assume the role as property manager. Platinum Properties is the developer of Saddle Creek as well as many other communities in Indianapolis and the surrounding areas. Tim DeHaan and Stacy Singer will be responsible for the management of your association. Tim will handle all the architectural review and community concerns and Stacy will handle all the billings and accounting functions. Collectively they have been managing associations for over ten years. Platinum will be working closely with Revel and Underwood to assure a smooth transition.

Attached is the 2000 budget and the 1999 forecasted expenditures for your review. The annual assessment for 2000 is \$528. Bids were solicited for major areas of work to assure the most economical price for services provided to you.

This year we will be collecting the dues bi-annually, (January 1st and July 1st). Next year, the dues will be collected annually and they will be due in full January 1st. We have switched the billing procedure in order to minimize administrative costs and keep your association bill as low as possible. If the fees are not paid by January 31st, or July 31st they will be considered late and a \$25 late fee will be added to your account. In addition, interest will accrue on the outstanding balance at an annual rate of 12%. Please send the check to the above address and please note your lot number and community on the check.

A note about snow removal: There will not be any removal of snow considered until 4 inches or more of snow has fallen. In order to keep costs at a minimum the contractor has been contracted to clear the streets for access purposes only and does not include driveways or access to mail boxes. The following factors will be considered regarding the snow removal operations:

1. How much additional snow is expected?
2. How hard the wind is blowing?
3. Contractor Scheduling

The removal crew will not be able to come back to clear where cars are parked on the street. Please park in your driveway when snow is expected. Blade trails left in front of driveways and mailboxes can not be avoided. Snow removal caused by blade trails is the

responsibility of the homeowner. Provisions for sealing the roads have not been made due to the huge cost involved with this procedure.

Reminders:

- Please remember that ALL permanent structures and additions to your home must be pre-approved. This includes decks, fences, porches, swingsets, additional landscaping, etc. This approval process is used as a protection of your investment as homeowners.
- Flat Top Cedar Shadow Box and Wrought Iron fences are the approved fence styles. Fences can not be placed in an easement nor can fences be installed parallel to 136th Street, Ditch Road and 141st Street.
- Cars should be parked on streets only when necessary and on a temporary basis. This is required to keep streets available for emergency vehicles and to maintain the overall appearance of the community.
- Please remember that all pets should be confined to their respective lots and any homeowner walking his/her pet should have that pet on a leash. Please take along the necessary supplies to clean up after them. Clean up of pet waste is the responsibility of the dog owner.
- In order to guarantee a safe environment and to protect the basketball court and the tennis court, the use of skateboards, roller skates and roller blades is strictly prohibited on these courts. Violators will be responsible for damages as a result of such activities.

If you have any questions or concerns regarding the common area, architectural review, or maintenance of the subdivision, please contact Tim DeHaan at 598-2894. If you have any questions or concerns regarding your payment, or the budget, please call Stacy Singer at 598-2895. If you are interested in helping out in any manner with the upkeep of the community, please call Tim or Stacy.

Sincerely,
SADDLE CREEK HOMEOWNERS ASSOCIATION

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