

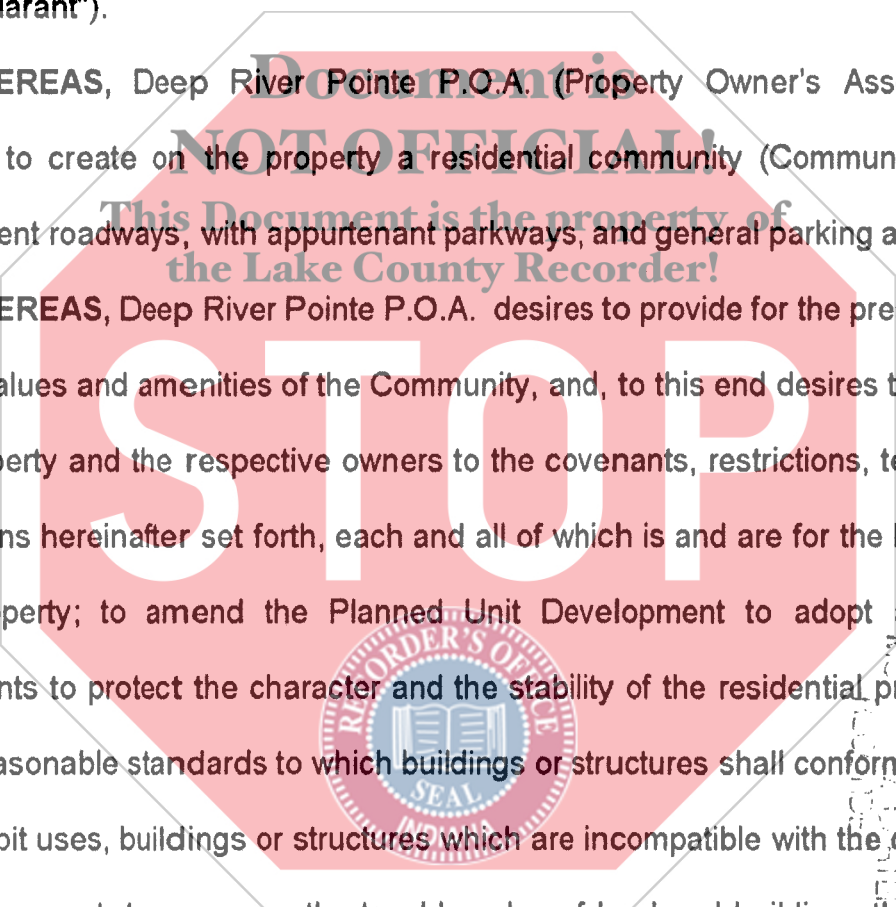
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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR DEEP RIVER POINTE DEVELOPMENT PHASE I PLANNED UNIT DEVELOPMENT OF DEEP RIVER POINTE PHASE I CITY OF HOBART, LAKE COUNTY, INDIANA**

THIS DECLARATION, dated this \_\_\_\_\_ day of \_\_\_\_\_ 1999, made by Deep River Pointe Property Owners Association, (hereinafter referred to as "Declarant").

WHEREAS, Deep River Pointe P.O.A. (Property Owner's Association), desires to create on the property a residential community ("Community") with permanent roadways, with appurtenant parkways, and general parking areas

WHEREAS, Deep River Pointe P.O.A. desires to provide for the preservation of the values and amenities of the Community, and, to this end desires to subject the property and the respective owners to the covenants, restrictions, terms and conditions hereinafter set forth, each and all of which is and are for the benefit of the Property; to amend the Planned Unit Development to adopt a set of Covenants to protect the character and the stability of the residential properties; to fix reasonable standards to which buildings or structures shall conform therein; to prohibit uses, buildings or structures which are incompatible with the character of development; to conserve the taxable value of land and buildings throughout the subdivision; and to define the powers and duties of the administrative officers in the Home Owner's Association in the Deep River Pointe Planned Unit Development; to encourage the erection of attractive improvements thereon, with appropriate locations thereof; and in general to provide adequately for a type and quality of improvement in that part of Deep River Pointe Phase I described



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STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORDING

**FILED**  
OCT 12 1999  
PETER BENJAMIN  
LAKE COUNTY AUDITOR

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GARY TYRRELL  
9214 NORRIS DR  
HOBART INDIANA 46342

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consistent with these Covenants. The provisions herein contained are for the mutual benefit and protection of the Owners, present or future, of any and all of the lots in that part of Deep River Pointe Phase I described herein, their respective legal representatives, heirs, successors, grantees, and assigns.



**LEGAL DESCRIPTION OF SUBDIVIDED LAND**

THAT PART OF SECTION 9, TOWNSHIP 35 NORTH, RANGE 7 WEST OF THE SECOND PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 9, THENCE NORTH 89 DEGREES 47 MINUTES 10 SECONDS EAST (ASSUMED BEARING) ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 1567.50 FEET TO A POINT THAT IS 95 RODS, (1567.50 FEET) EAST OF SAID WEST QUARTER CORNER OF SECTION 9; THENCE NORTH 0 DEGREES 38 MINUTES 56 SECONDS WEST 475.00 FEET. THENCE ALONG A LINE COINCIDENT WITH THE NEXT NINETEEN, (19), COURSES AND DISTANCES: 1) SOUTH 37 DEGREES 50 MINUTES 41 SECONDS EAST, 94.58 FEET; 2) SOUTH 74 DEGREES 06 MINUTES 05 SECONDS EAST, 341.18 FEET; 3) NORTH 74 DEGREES 37 MINUTES 52 SECONDS EAST, 70.53 FEET; 4) NORTH 25 DEGREES 43 MINUTES 17 SECONDS EAST, 101.85 FEET; 5) NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 122.12 FEET; 6) NORTH 60 DEGREES 30 MINUTES 03 SECONDS EAST, 107.44 FEET; 7) NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST, 100.00 FEET; 8) SOUTH 70 DEGREES 52 MINUTES 34 SECONDS EAST, 212.56 FEET; 9) SOUTH 48 DEGREES 01 MINUTES 38 SECONDS EAST, 91.47 FEET; 10) SOUTH 05 DEGREES 34 MINUTES 30 SECONDS WEST, 70.00 FEET; 11) SOUTH 25 DEGREES 55 MINUTES 04 SECONDS WEST, 66.13 FEET; 12) SOUTH 47 DEGREES 27 MINUTES 41 SECONDS WEST, 281.50 FEET; 13) SOUTH 71 DEGREES 34 MINUTES 25 SECONDS WEST, 236.55 FEET; 14) SOUTH 16 DEGREES 58 MINUTES 27 SECONDS WEST, 104.82 FEET; 15) SOUTH 71 DEGREES 58 MINUTES 27 SECONDS EAST, 79.99 FEET; 16) SOUTH 0 DEGREES 00 MINUTES 00 SECONDS EAST, 64.74 FEET; 17) SOUTH 26 DEGREES 27 MINUTES 46 SECONDS WEST, 195.70 FEET; 18) SOUTH 07 DEGREES 18 MINUTES 37 SECONDS WEST, 844.79 FEET; 19) SOUTH 85 DEGREES 07 MINUTES 28 SECONDS WEST, 281.61 FEET; THENCE SOUTH 57 DEGREES 28 MINUTES 30 SECONDS WEST, 188.55 FEET; THENCE ALONG A LINE COINCIDENT WITH THE CENTERLINE OF HOBART-DEEP RIVER ROAD AS MEASURED ALONG THE EXISTING CENTERLINE OF PAVEMENT AND PER DEED DOCUMENT NO. 280339 FOLLOWING THE NEXT FOUR (4) COURSES AND DISTANCES: 1) NORTH 52 DEGREES 22 MINUTES 09 SECONDS WEST, 283.02 FEET; 2) NORTH 47 DEGREES 36 MINUTES 07 SECONDS WEST, 150.22 FEET; 3) NORTH 49 DEGREES 11 MINUTES 35 SECONDS WEST, 99.93 FEET; 4) NORTH 61 DEGREES 37 MINUTES 42 SECONDS WEST, 79.99 FEET; THENCE NORTH 75 DEGREES 41 MINUTES 14 SECONDS WEST, 92.30 FEET; THENCE NORTH 83 DEGREES 51 MINUTES 14 SECONDS WEST ALONG THE CENTERLINE OF HOBART-DEEP RIVER ROAD (PER DEED), 295.00 FEET; THENCE NORTH 83 DEGREES 39 MINUTES 45 SECONDS WEST ALONG THE CENTERLINE OF HOBART-DEEP RIVER ROAD (PER DEED), 107.65 FEET; THENCE NORTH 83 DEGREES 53 MINUTES 44 SECONDS WEST ALONG SAID CENTERLINE OF HOBART-DEEP RIVER ROAD 492.75 FEET TO A POINT THAT IS 599.30 FEET NORTH OF THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 9; THENCE NORTH 00 DEGREES 26 MINUTES 14 SECONDS WEST ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 9 A DISTANCE OF 759.03 FEET TO THE PLACE OF BEGINNING: IN THE CITY OF HOBART, LAKE COUNTY, INDIANA.

## ARTICLE I

### DEFINITIONS

1.01 **Definitions.** The following terms, unless the context requires otherwise, shall have the following meaning when used in this Declaration:

A. **"Declaration"** shall mean this instrument, the code of By-Laws and shall include such amendments, if any, to this instrument as may from time to time be adopted as permitted by the term hereof.

B. **"Declarant"** shall mean provided, however, that Declarant may act hereunder by and through any structures or improvements constructed or placed upon any part of the Community Facilities. All personal property owned or controlled by the Association and available for the common benefit and/or use of owners, or for the maintenance and management of any part of the Property in accordance with the provisions of this Declaration and the By-Laws, shall be deemed to be Community Facilities insofar as the same is to be owned, used or disposed of for the benefit of Owners.

C. **"Unit" or "Dwelling Unit"** shall mean a residential building and/or house which, as originally constructed, is integrated and designed for use exclusively as living quarters for a single family.

D. **"Building"** shall mean a structure, located on the property.

E. **"Parcel"** shall mean and refer to any property without a building.

F. **"Owner", "Unit Owners",** shall mean and refer to a record owner, whether one or more persons or entities, and including the Developer, of a fee simple title to any Dwelling Unit, including contract sellers, but excluding those other than contract sellers having such interest merely as security for the performance of an obligation. Builder shall not be considered an Owner of unsold



parcels (for purposes of Article 3.02).

G. "Member" shall mean and refer to every person or entity who holds membership in the Association.

H. "Board" shall mean and refer to the board of directors of the Association as constituted at any time or from time to time.

I. "Occupant" shall mean a person or persons who from time to time occupy a Dwelling Unit.

J. "Occupancy Expense" shall mean all-sums incurred, expended, or proposed to be expended for the purpose of carrying out, protecting, performing, or implementing the required or permitted activities of the Board or Association hereunder or which are for the benefit of Owners.

K. "Proportionate Share" shall mean that amount of the Common Expense as bears the same ratio to the total amount of Common Expenses, as the number of Units owned by an Owner bears to all Units existing subject to the provisions hereof, at the time or times each respective determination of Proportionate Share is made. A parcel which is vacant or which is being improved with a Dwelling Unit shall be deemed to be the Unit for purposes of calculating Proportionate Share.

L. "Dwelling Size" the ground floor coverage and/or living area as hereinafter defined of the dwellings, exclusive of attached garages, open terraces, porches, and breezeways, shall be as follows:

One-story dwelling with basement or crawl space – Not less than one thousand four hundred (1,400) square feet of ground coverage.

One-story dwelling built on slab – Not less than one thousand four hundred (1,400) square feet of ground coverage.

Golf Villas – Not less than one thousand four hundred (1,400) square feet of ground coverage.

Town Homes - Not less than one thousand six hundred (1,600) square feet of living space.

Two-story dwelling - Not less than eleven hundred (1,100) square feet of ground coverage nor less than two thousand two hundred (2,200) square feet of total living area.

One and one-half story dwellings - Not less than one thousand one hundred (1,100) square feet of ground coverage and a total living area of one thousand six hundred (1,600) square feet.

All dwellings should be built on a basement, crawl space or slab. All structures shall be required to have at least an attached two-car garage, which as indicated above shall not be included when computing the total square footage required.

For purposes of this Section, the following definitions are applicable:

A one-story dwelling is defined as a dwelling having all living area on one (1) floor. The foundation may be a basement, crawl space or a slab. The living or floor level is at or slightly above the exterior grade level.

A two-story dwelling is defined as a dwelling having two (2) floors of living area, both above grade and both approximately the same size.

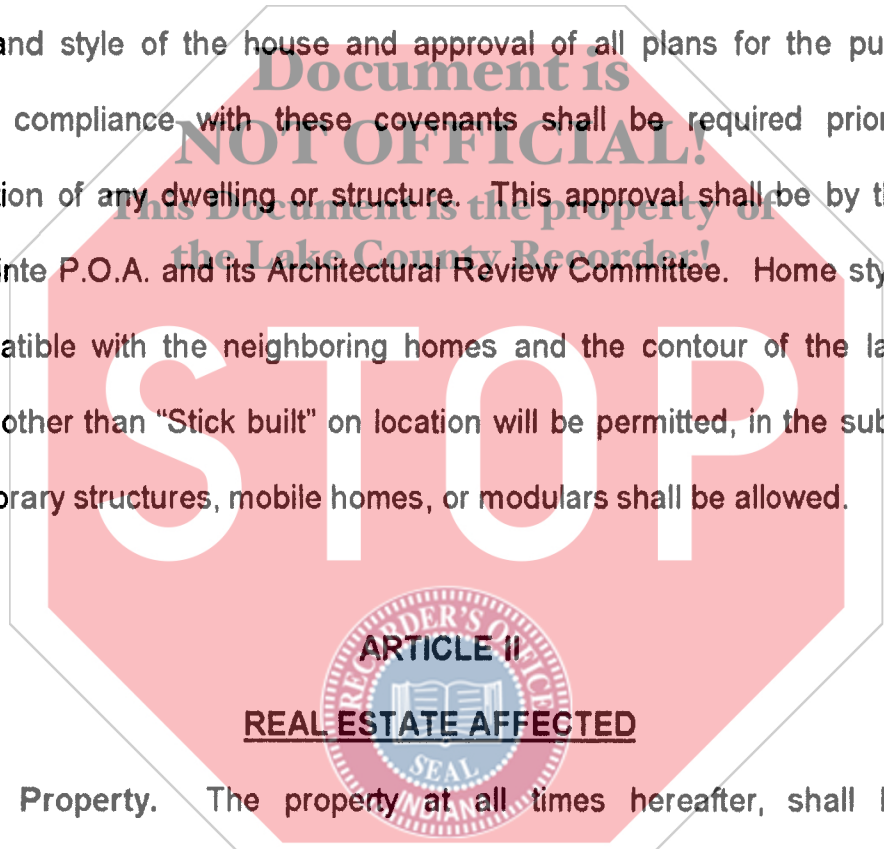
A one and one-half story dwelling is defined as a dwelling having in addition to ground floor living area, a living area wholly or partly within the roof frame. Space with less than five (5) feet clear headroom is not considered living area. One (1) or more dormers are required to qualify the

upper level as one-half (1/2) story (as opposed to finished attic area).

Ground Coverage is defined as the total foundation area supporting all living area.

Living area is defined as living room, bedroom, kitchen, dining room, family room, and utility rooms. To qualify as living area the interior finish must be of a manner and quality of materials in keeping with the other rooms.

M. "Architectural Control". Architectural control of the site plan, design, and style of the house and approval of all plans for the purpose of assuring compliance with these covenants shall be required prior to the construction of any dwelling or structure. This approval shall be by the Deep River Pointe P.O.A. and its Architectural Review Committee. Home styles shall be compatible with the neighboring homes and the contour of the land. No building, other than "Stick built" on location will be permitted, in the subdivision. No temporary structures, mobile homes, or modulares shall be allowed.



2.01 Property. The property at all times hereafter, shall be held, transferred, sold, conveyed, used and occupied subject to and in accordance with the terms, provisions and conditions contained in this Declaration.

2.02 Applicability of Declaration. Upon subjection of the Property to the terms, provisions and conditions of this Declaration, unless otherwise specified by Deep River Pointe P.O.A., all action heretofore taken hereunder by the Board, the Association shall be binding upon and inure to the benefit of the Parcel and Unit Owner.

However, the Owners of such Property shall not be responsible for any portion of the expenditures made by the Board or Association prior to the date such Property is subject to this Declaration

2.03 **Sub-Declarations and Agreements.** Deep River Pointe P.O.A., the Board, the Association may from time to time hereafter make further Declarations and enter into further agreements affecting the Parcel or Unit on the Property, including but not limited to, condominium declarations, maintenance and cross easement agreements and homeowner or building owner declarations. To the extent the provisions of any such agreement or declaration shall conflict with the terms, provisions and conditions hereof, then this Declaration shall govern.

**ARTICLE III**

**MEMBERSHIP AND VOTING RIGHTS IN -THE ASSOCIATION**

3.01 **Membership.** Each Owner of a Unit shall have a membership in the Association. Membership in the Association is appurtenant to and shall not be separated from ownership of a Unit, and each owner shall be an Owner of a Unit, or by accepting a conveyance of the same, be a Member of the Association, and thereby succeed to the rights and become subject to the obligations of a Member of the Association, whether or not reference is made thereto in the instrument of conveyance or any other document of ownership.

3.02 **Voting Rights.** Each Owner Occupant shall be entitled to one (1) vote. There shall be one (1) vote and one (1) voting member for each unit, regardless of the numbers of persons who may have ownership interest in a unit or the manner in which title is held by them.



ARTICLE IV

OWNERSHIP, USE, MAINTENANCE AND EASEMENTS

PERTAINING TO COMMUNITY FACILITIES and GOLF COURSES

4.01 **Conveyance of Community Facilities.** Builder shall convey to the Association that portion of the Property, to be used as a Community Facility for streets, parkway, sewer, and utility conduits and drainage, and such other purposes as may be designated by the Association.

4.02 A. **Easements.** Strips of ground shall be reserved as easements for the use of public utilities, for the installation and maintenance of underground pipelines, wires and other installations. No permanent or other structures are to be erected or maintained upon said strips of land. The Owners of lots shall take their titles subject to such easements, and such easements are for the benefit of all Lot Owners in said subdivision.

A written copy of all plans and all specifications shall be submitted to the Deep River Pointe P.O.A. and Architectural Review Committee, and subject to its written approval. The Architectural Review Committee members shall be appointed and approved by the Deep River Pointe P.O.A. Board. Approval or disapproval shall be given in writing within thirty (30) days after receiving complete plans and specifications. In the event written approval or disapproval is not obtained within thirty (30) days after submission of complete plans and specifications, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, formal approval will not be necessary, however, compliance with the terms of the Covenants contained herein shall still be required. The construction of any residential structure must be commenced within eighteen (18) months from the date of the closing of the

purchase of the lot and the construction shall be completed within twelve (12) months weather permitting from the date of the commencement of construction. Deep River Pointe P.O.A. may extend the time of completion if in its opinion weather or other conditions have contributed significantly to the delay. Any exceptions to this rule; has to be put in writing and approved by the P.O.A. During the construction, no unnecessary building materials, piles or fill or piles of trash shall be permitted to accumulate. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more that four (4) months from the time of such destruction or damage. Neither the Lot Owners, nor any agent(s) thereof, nor the Deep River Pointe P.O.A., shall be responsible in any way for any defects in plans.

B. "Sidewalks" and "Driveways". Responsibility of Builder.

C. Prohibition against it or Similar Homes. The Owner of each lot agrees that he shall not build a home identical or similar to the home located on either side of the lot in appearance.

D. Maintenance of Lots and Improvements of Completed Dwellings. The Owner Occupant of any lot in the Subdivision 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:

1. Remove all debris or rubbish.
2. Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Subdivision.
3. Keep the exterior of all improvements in such state of repair

or maintenance as to avoid their becoming unsightly.

4. Builder or owner is responsible for the maintenance of their lots. Grass or weed to be no higher than 3 inches.
5. No exposed drainage to run across or drain onto Golf Course property.

E. To reserve or grant for the benefit of the existing privately owned eighteen hole golf course (owned and operated by the Gary Works Supervisors Club Incorporated), the right of passage of P.U. and D.E. of Platt is hereby given and that maintenance to be accepted by said club.

**4.03 Easement Equipment.** All pipes, cables, poles and equipment installed in or as part of an easement for any of the purposes set forth in Article 4.02 above shall be a part of the Community Facilities, constituting the property of the Association, unless the same are owned by a utility company, or governmental authority and specifically excluding the golf path/walkway through the conservation easement areas.

**4.04 Other Facilities.** The Association shall have the right to install and operate upon the Community Facilities (to the extent permissible under applicable law) recreational and other facilities incidental to the residential nature of the Community and primarily for the benefit of the Owner and Occupant. Fees and charges may be imposed for the use of such facilities, provided that such facilities shall be maintained solely for the benefit of the Owner Occupant and their guests. The fees and charges herein permitted shall be limited to the amounts necessary to pay for the cost of operation and replacement thereof.

**4.05 Use of the Community Facilities.** Subject to the provisions of Articles 4.04 and 4.07 hereof, each Owner shall have the right to the use and

benefit of all Community Facilities in connection with the use, possession, occupancy or enjoyment of the respective Parcels and Units owned by such Owner. Such rights shall extend to the Owners Occupants, guests and other authorized invitees of the Owner Occupant and the Association, and shall be appurtenant to and pass with the title of every Parcel and Unit; provided that such rights shall be subject to and governed by the provisions of this Declaration and the By-Laws, rules and regulations of the Board, or the Association acting through the Board. The Association shall have the right of ingress to and egress from, under, along, over and upon the Community Facilities for any and all purposes connected with the use, maintenance, construction, operation, repair and reconstruction of any of the Community Facilities.

**4.06 Suspension of Privileges.** The rights to the use of Community Facilities and the easements created hereunder shall be subject to suspension, with respect to any Owner Occupant for any period during which any assessment of the Association shall remain unpaid for the Parcel or Unit owned or occupied by such person, or for any period which the Board shall determine as a result of any default in or infraction of the terms, conditions, undertakings or obligations of this Declaration, the By-Laws of the Association, or pursuant to specific action of the Board or Association. No policy or action in any specific case shall limit the powers of enforcement of the Board and Association in other cases, and the Board may in its discretion seek injunctive or other legal or equitable relief to enforce its determination to suspend privileges.

**4.07 No Dedication.** Nothing contained in this Declaration shall be construed or be deemed to constitute a dedication, express or implied, of any part of the Community Facilities to or for any public use or purpose whatsoever.



4.08 **Prior Rights.** Notwithstanding anything herein to the contrary, the rights and easements created hereunder shall be subject to easements, covenants, conditions and restrictions of record, which may be prior to the provisions hereof.



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CODE OF BY-LAWS  
OF  
DEEP RIVER POINTE PROPERTY OWNERS ASSOCIATION, INC.

SECTION I

Identification and Applicability

1.01 Identification and Adoption. These By-Laws are adopted simultaneously with the execution of a certain Declaration to which these By-Laws are attached and made a part thereof. The Declaration is incorporated herein by reference, and all of the covenants, rights, restrictions and liabilities therein contained shall apply to and govern the interpretation of these By-Laws. The definitions and terms as defined and used in the Declaration shall have the same meaning in these By-Laws and reference is specifically made to Article I of the Declaration containing definitions of terms. The provisions of these By-Laws shall apply to the Property and the administration and conduct of the affairs of the Association. These By-Laws shall also constitute the By Laws of the Association.

1.02 Individual Application. All of the Owner Occupant and future Owner Occupant, shall be subject to the restrictions, terms and conditions set forth in the Declaration, these By-Laws, and to any rules and regulations adopted by the Board as herein provided.

SECTION II

Administration

2.01 Board. The direction and administration of the Community Facilities shall be vested in the Board. Until the first meeting of Voting Members held pursuant to Section 2.05, the initial Board shall consist of three (3) people, who shall

be elected by the homeowners voting Members. Thereafter, the Board shall consist of five (5) persons who shall be elected by the Voting Members, and such persons and their successors shall serve until the third annual meeting following their election or until their successors have been qualified; provided, however, that of the persons elected to the Board at the first meeting of the Voting Members, three (3) shall be elected for terms of two (2) years and two (2) shall be elected for terms of one (1) year each. Subsequently, each Board member elected shall serve for a term of two (2) years. The provisions of Sections II and III shall constitute the initial and basic By-Laws of the Board and Association. After the first annual meeting of Voting Members, each member of the Board shall be an Owner Occupant.

2.02 Determination of Board to be Binding. Notwithstanding that the words "Board" and "Association" may in some instances be used interchangeably in various sections of this Declaration, matters of dispute or disagreement between Owners or with respect to interpretation or application of the provisions of the Declaration or the By-Laws shall be determined by the Board, which determination shall be final and binding on the Association and on all Owners.

2.03 Operation of the Board.

A. Meetings of the Board. An Annual Meeting of the Board shall be held immediately following each Annual Meeting of the Voting Members and at the same place. Special Meetings of the Board shall be held upon call by the President or by a majority of the Board on not less than forty-eight (48) hours' notice in writing to each Board Member, delivered personally or by mail or telegram. Any Board Member may in writing waive notice of a meeting, or consent to the holding of a meeting without notice, or consent to any action of the Board without a meeting (in which event unanimous consent of all Board Members shall be required). A majority



of the Board shall constitute a quorum, and determinations of the Board shall be binding upon the affirmative vote of a majority of those members of the Board present at any meeting at which a quorum is in attendance (or by unanimous consent, as above stated).

B. Compensation of Board Members. No compensation shall be paid to Board Members for services in such capacity, unless Voting Members having three-fourths (3/4) of the total votes shall approve such compensation.

C. Election of Officers by Board. At each annual meeting of the Board, the Board shall elect from among its members a President who shall preside over its meetings and those of the Voting Members, a Secretary who shall keep the minutes of all meetings of the Board and of the Voting Members and who shall, in general, perform all the duties incident to the Office of Secretary, and a Treasurer to keep the financial records and books of account. The Board may by resolution create additional offices and elect appointees thereto, may create committees and make appointments thereto and may at anytime make appointment to fill a vacancy in any office. All officers shall serve until the next annual meeting of the Board or until their successors are elected and qualified.

D. Compensation of Officers. No compensation shall be paid to an officer for services in such capacity, unless Voting Members having three-fourths (3/4) of the total vote shall approve such compensation.

E. Removal of Officers. Any Board Member may be removed from office by affirmative vote of the Voting Members having at least three-fourths (3/4) of the total votes, at any Special Meeting called for such purpose. Any officer may be removed from office by the affirmative vote of a majority of the members of the Board at a Special Meeting of the Board called for such purpose.

2.04 Voting Rights of Members. Refer to Article 3.02.

2.05 Annual Meeting of Voting Members. There shall be an Annual Meeting of the Voting Members on the first Tuesday of January of each succeeding year, at 7:30 p.m. on the Property, or at such other reasonable place or time (not more than thirty (30) days before or after such date), as may be designated by written notice of the Board delivered to the Voting Members not less than fifteen (15) days prior to the date fixed for said meeting. At each Annual Meeting of Voting Members, the Voting Members shall, by a majority of the total votes present at any such meeting, elect the Board members for the following year, and transact such further or other business as shall properly be brought before the meeting.

2.06 Special Meetings of Voting Members. After the initial Annual Meeting of Voting Members, special meetings of the Voting Members may be called at any time for the purpose of considering matters which, by the terms of this Declaration, require the approval of all or some of the Voting Members, or for any other reasonable purpose. Said meetings shall be called by written notice (unless waived in writing), authorized by a majority of the Board, or by the Voting Members having one-third (1/3) of the total votes, and delivered no less than ten (10) days prior to the date fixed for said meeting. The notices shall specify the date, time and place of the meeting and the matters to be considered.

2.07 Notice of Meetings of Voting Members. Notices of Meetings required to be given herein may be delivered either personally or by mail to the person entitled to vote thereat, addressed to each such person at the address given by him to the Board for the purpose of service of such notice.

2.08 Quorum: Procedure. The presence at any meeting of the Voting Members having twenty percent (20%) of the total votes shall constitute a quorum.

Unless otherwise expressly provided herein, any action may be taken at any meeting of the Voting Members at which a quorum is present upon the affirmative vote of the Voting Members having a majority of the total present at such meeting. Any Voting Members in writing may waive notice of a meeting, or consent to the holding of a meeting without notice or consent to any action of the Association without a meeting (in which event unanimous consent of all Voting Members shall be required.)

2.09 General Powers of the Board. Without limiting the general powers, which may be provided by law, the Declaration and these By-Laws, the Board shall have the following general powers and duties:

- A. To elect the officers of the Association as herein above provided;
- B. To administer the affairs of the Association and the Community Facilities;
- C. To engage the services of a manager or managing agent who shall manage and operate the Community Facilities for all of the Owners, upon such terms and for such compensation and with such authority as the Board may approve;
- D. To formulate the policies for the administration, management, use and operation of the Community Facilities, and to provide for the implementation thereof;
- E. To adopt administrative rules and regulations governing the administration, management, operation and use of the Community Facilities, and to provide for the enforcement thereof, and to amend such rules and regulations from time to time;
- F. To provide for the maintenance, repair and replacement of the

Community Facilities and payments therefor, and to approve payment vouchers or to delegate such approval to the officers or the manager or managing agent;

G. To provide for the designation, hiring, and removal of employees and other personnel, and to engage or contract for the services of others, and to make purchases, for the maintenance, repair, replacement, administration/management, and operation of the Community Facilities, and to delegate any such powers to the manager or managing agent (and any such employees or other personnel employed by the managing agent);

H. To estimate the amount of the annual budget, and to provide the manner of assessing and collecting from the Owners their respective Proportionate Shares thereof, as hereinafter provided;

I. To comply with the instructions, of the Voting Members, as expressed in any resolution adopted by an affirmative vote of a majority of the total votes held by all Voting Members (unless a greater plurality is required with respect to any issue or matter, as elsewhere herein specified);

J. To manage and to make determinations with respect to the Community Facilities;

K. To exercise all other powers and duties of the Board referred to in the Declaration or these By-Laws, and to perform all acts necessary to implement the foregoing.

2.10 Specific Powers of the Board. The Board shall acquire and shall have the power to purchase, contract for and pay for the following within the general powers granted herein, and which are listed for the purposes of illustration and not for the purpose of limitation:

A. Liability insurance. Comprehensive public liability insurance,



including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable (but not less than One Million Dollars (\$1,000,000.00) for bodily injury and property damage for any single occurrence), and other liability insurance as it may deem desirable, insuring each Owner, the Association, its officers, members of the Board, the manager and managing agent, if any, and their respective beneficiaries, employees and agents (to the extent that any or all of the same are, in the determination of the Board, properly named as insured), from liability in connection with the ownership and/or use of the Community Facilities, and legal liability that results from lawsuits related to employment contracts to which the Association is a party. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. The liability policy should also provide for at least thirty (30) days written notice to the Owner's Association before the insurer can cancel or substantially modify the policy.

B. Wages and Fees for Services. The services of any person or firm employed by the Board, including without limitation the services of a person or firm to act as manager or as managing agent for the Community Facilities, the services of any person or persons required for maintenance or operation of the Community Facilities, and legal, accounting and other professional services necessary or proper in the operation of the Community Facilities or the enforcement of this Declaration and for the organization, operation and enforcement of the rights of the Association.

C. Additional Expenses. Any other materials, equipment, supplies, furniture, labor, services, maintenance, repairs, structural alterations or additions, insurance or assessments which the Board is required to or may secure or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be

necessary or proper for the maintenance and operation of the Community Facilities or for the enforcement or implementation of any of the terms and provisions of this Declaration.

2.11 Vouchers. All vouchers for payment of expenditures by the Board shall be signed by such officer(s) or agent(s) of the Board in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such vouchers shall be signed by the Treasurer and countersigned by the President of the Association.

**NOT OFFICIAL!**

This Document is the property of  
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the Lake County Recorder!  
ASSESSMENT-MAINTENANCE FUND

3.01 A. Common Expenses Estimate. Each year on or before December 1, the Board shall estimate the total amount necessary to pay the cost of wages, materials, equipment, improvements, additions, insurance, services and supplies which are anticipated will be required or incurred during the ensuing calendar year for the performance of all services and other undertaking required or permitted herein and to be charged as Common Expenses, together with a reasonable amount considered by the Board to be necessary for a reserve for contingencies and replacements, and shall, on or before December 15, notify each Owner in writing as to the amount of such estimate, with reasonable itemization of the categories or composition thereof. Each Owner shall be assessed for a Proportionate Share of said "estimated cash requirement." On or before January 1, of the ensuing year, and each thirty (30) days thereafter, each Owner shall be obligated to pay to the Board or as it may direct, one twelfth (1/12) of the annual Owners Assessments made pursuant to this Section. A late fee charge of

Twenty-Five Dollars (\$25.00), or such other amount as may be determined by the Board from time to time, shall be added to any assessment not paid within thirty (30) days of its due date. On or before the date of the Annual Meeting of each calendar year, the Board shall supply to all Owners an itemized accounting of all expenditures for Common Expenses for the preceding calendar year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures, plus reserves. For the purpose of this Section, annual assessments shall commence at the time of the initial sale or occupancy of each individual unit.

B. Special Assessments to Particular Owners. Special assessments made against particular Owners as permitted in Paragraphs 2.09 H, I, K, 3.02, or any other provisions hereof, shall be due and payable within twenty (20) days after notice by the Board to an Owner, specifying the amount and nature thereof. The Board shall have all rights and remedies with respect to nonpayment and collection of any such special assessment as is provided herein for assessments for Common Expenses.

3.02 Reserve for Contingencies and Replacements. The Board shall establish and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate, which may become necessary during the year, shall be charged first against such reserve. If the annual "estimated cash requirement" proves inadequate for any reason, including but not limited to, nonpayment of any owner's assessment, the Board may, at any time, levy a further assessment, which shall be assessed to the Owners in Proportionate Shares. The Board shall serve notice of such further assessment on all Owners responsible therefor by a statement in writing giving the amount and

reason therefore, and such further assessment shall become effective with the next maintenance payment which is due within ten (10) days after the delivery or mailing of such notice of further assessment. All Owners shall be obligated to pay the adjusted monthly amount.

3.03 Budget for First Year. When the first Board elected hereunder takes office, it shall determine the estimated Common Expenses, as herein above defined, for the period commencing thirty (30) days after said election and ending on December 31 of the calendar year in which said election occurs. Assessments shall be levied against the responsible Owners during said period as provided in Section 3.01. Nothing herein shall limit the authority of Any Board serving prior to the first annual meeting of Voting Members to prepare budgets and require assessments and to exercise all of the other rights and prerogatives of the Association and the Board hereunder.

3.04 Failure to Prepare Annual Budget. The failure or delay of the Board to prepare or serve the annual or adjusted estimate on an Owner shall not constitute a waiver or release in any manner, of such Owner's obligation to pay any sums herein provided whenever the same shall be determined, or whenever served; and in the absence of any annual estimate or adjusted estimate, the Owner shall continue to pay the monthly assessment at the then pendant monthly rate.

3.05 Books and Records. The Association shall maintain or cause to be maintained full and correct books of account in chronological order of the receipts and expenditures. Such records and the vouchers authorizing the payment shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by the Owner. Upon ten (10) days notice to the Board and



payment of a reasonable fee, any owner shall be furnished a current statement of his account, setting forth the amount of any unpaid assessments or other charges due and owing from such Owner, to the extent the same is then determined.

3.06 Status of Collected Funds. All funds collected hereunder shall be held and expended for the purposes designated herein, and shall be deemed to be held for the benefit, use and account of all the Owners in their respective Proportionate Shares, except to the extent special assessments are collected for and are to be applied against, specific expenditures or obligations and except for such adjustments as may be required to reflect delinquent or prepaid assessments.

3.07 Obligations and Rights Upon Transfer. Each assessment together with such interest, costs and reasonable attorney's fees shall be the personal obligation of the person who was the Owner of the Unit at the time the assessment was levied. This personal obligation shall not pass to successors in title unless expressly assumed. Upon the transfer of a Unit, unless there is an agreement to the contrary, approved by the Board, any reserves or other funds of the transferor held by or subject to the control of the Association shall be deemed transferred to the transferee of the Unit or Parcel.

3.08 Remedies for Failure to Pay Assessments. If an Owner is in default in the payment of any charges or assessments required hereunder for thirty (30) days after the same are due and payable, the Board may bring suit for and on behalf of itself or the Association and as representative of all owners, to enforce hereunder for thirty (30) days after the same are due and payable, to enforce collection thereof against such Owner personally, and may in addition thereto or in the alternative as it elects, bring suit to foreclose the lien therefore as hereinafter provided; and there shall be added to the amount due additional charges for the costs of said suit,

together with interest at the legal rate (or at the rate of twelve percent (12%) per annum if no legal rate applies) from the date due to the date of payment, plus reasonable attorney's fees. The amount of any delinquent and unpaid assessments and charges for interest, costs and fees as above provided, shall be and become a lien or charge against the Unit or Parcel of the Owner involved when payable, and may be foreclosed by an action brought in the name of the Board or Association as in the case of foreclosure of liens against real estate. Unless otherwise provided in this Declaration, the members of the Board and their successors in office, acting on behalf of the Association, shall have the power to bid in the interest so foreclosed at foreclosure Sale, and to acquire and hold, lease, mortgage and convey the same. Said lien shall take affect and be in force thirty (30) days after an assessment is delinquent but shall not be binding upon nor affect third persons unless and until a notice thereof is recorded with the Recorder of Deeds; provided, however, that encumbrances if the encumbrance was recorded before the delinquent assessment was due. A lien for a common expense assessment is not affected by the sale or transfer of a Unit estate, unless a foreclosure of first mortgage is involved. In that event, the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but will not relieve any subsequent Owner from paying further assessments. Any encumbrancer may, from time to time, request in writing a written statement from the Board setting forth unpaid assessments and charges with respect to the Unit or Parcel covered by his encumbrance, and, unless the request shall be complied with within thirty (30) days after receipt thereof, all unpaid assessments and charges which become due prior to the date of making such request shall be subordinate to the lien of such encumbrance. Any encumbrancer holding a lien on a Unit or Parcel may pay any unpaid assessments and charges

payable with respect to such Unit or Parcel and may, if permitted by the terms and provisions of his encumbrance, have a lien on such Unit or Parcel for the amounts paid at the same rank as the lien of his encumbrance. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Community Facilities or abandonment of his Unit or Parcel.

#### SECTION IV

##### Covenants and Restrictions as to Use and Occupancy

4.01 Use. The Units, Parcels, and Buildings and Community Facilities shall be used and occupied as follows:

A. Residential Purposes. No part of the Property shall be used for other than housing and other related common purposes, except Community Facilities and concession areas erected or installed primarily for the convenience, recreation or service of Owners and Occupants. Each Dwelling Unit shall be used as a residence for a single family or for such other user permitted by this Declaration and for no other purposes.

B. Architectural Controls. No building, deck, antenna, fence, wall or other improvement shall be commenced, erected, or maintained, nor shall any addition to or change or alteration therein be made, except interior alteration, until the construction plans and specifications showing the nature, kind, shape, height and materials, color scheme, location and lot and approximate cost of such Building or other improvement, and the grading plan and landscape plan of the Parcel to be built upon shall have been submitted to and approved in writing by the Board and the Architectural Review Committee. The Board and the Architectural Review Committee shall, in their sole discretion, have the right to refuse to approve any

such construction plans or specifications, grading plan, or landscape plan, for aesthetic or other reasons; and in so passing upon such construction plans and specifications, grading plan, or landscape plan, shall have the right to take into consideration the suitability of the proposed building or other improvements with the surroundings, and the effect of the Building or other improvement with the surroundings, and the effect of the Building or other improvement on the outlook from adjacent or neighboring parcels, and the ratio between the size of the Parcel and the proposed Building. The Board may decide to add additional items as needed to maintain the integrity of the Association.

C. Zoning and Restrictions. Each Owner shall faithfully comply with and observe the restrictions and requirements of each planned unit development ordinance and other zoning ordinances, including any amendments and modifications thereto to, now or hereafter, which affect his Parcel, and no Owner shall permit any other person to violate the same in connection with his Parcel. Such restrictions include but are not limited to the location of Buildings and the maintenance of open areas or "green areas." Each Owner shall also faithfully comply with and observe any restriction or requirement affecting his Parcel which may be incorporated by the P.O.A. in a Declaration (while Developer is the title-holder thereof,) deed, or agreement with the Owner which is either filed for record with the Recorder of Deeds or of which Owner shall have notice or knowledge.

D. Decorating Schemes. Each Unit shall have a uniform and coordinated and sightly landscaping scheme. Any substantial deviation from the original exterior plan and landscaping provided by Builder or approved by the Board shall require the written approval of the Board. Awnings, canopies, exterior shutters



and other similar decor may not be added without such consent.

E. **Painting and Repairs.** If any Unit shall be in substantial need of exterior painting or repairs, or interior repairs necessary to the safe and proper maintenance in any portion of the Unit, upon written notice to the owner and after the expiration of thirty (30) days subsequent to the mailing of such notice, the Board shall have the right to order the necessary work done, and the Owner affected thereby shall have the obligation to pay for such work as may be ordered by the Board. The color or quality of the exterior paint or siding cannot be changed without the consent of the Owner. In the event of conflict with respect to the foregoing, any aggrieved Owner may require that the matter in controversy be determined by the Board, whose determination shall be conclusive.

F. **Obstruction of Community Facilities.** No owner shall maintain or permit any obstruction of the Community Facilities or any common area, nor shall anything be stored in or on the Community Facilities without the prior consent of the Board.

G. **Lounging or Storage in Community Facilities.** There shall be no playing, lounging, parking of baby strollers or playpens, bicycles, tricycles, wagons, scooter, toys, vehicles, benches or chairs, or similar items, on any part of the Community Facilities except such portion thereof as may be designated for such purpose by the Board.

H. **Alterations of Community Facilities.** Nothing shall be altered or constructed in or removed from the Community Facilities except upon the written consent of the Board. No waste shall be committed to the Community Facilities.

I. **Prohibited Activities.** No trade or business of any kind or character, nor the practice of any profession shall be conducted, maintained or

permitted on the Property, except as otherwise provided in these Declarations.

In addition, since the existing golf course is privately owned and operated and the nine holes will also be privately owned and operated, no owner may use or enjoy any portion of or facility relating to the golf course without prior written permission of Gary Works Supervisors Club Incorporated. Any activity, which disrupts the maintenance or use of the golf course, is prohibited.

J. Certain Personal Activities Permitted. The restrictions in Paragraphs A. and I. of this Section shall not, however, be construed in such manner as to prohibit an Owner from renting a Unit to third parties, maintaining in a Unit his personal professional library, keeping in his Unit his personal, business or professional records or accounts, or handling his personal, business, or professional telephone calls or correspondence from his Unit.

K. Pets. No animals, including livestock, rabbits, pigs, fowl or poultry of any kind shall be raised bred or kept in or about any Unit or Parcel or in the Community facilities, except that two (2) dogs, cats or other household pets may be kept in a Unit, subject to rules and regulations adopted by the Board, provided that they are not kept, bred or maintained for any commercial purposes; and provided further that any such pet causing or creating a nuisance or unreasonable disturbance in the opinion of the Board, shall be permanently removed from the property upon three (3) days written notice from the Board. Residents keeping domestic animals which. Comply with these restrictions, shall abide by municipal requirements and shall be responsible for any inconvenience or damage caused by such animals.

L. Nuisances. No Owner shall permit any noxious or offensive activity to be carried on in any Unit or in the Community Facilities, nor shall anything

be done therein, either willfully or negligently, which may be or become a nuisance to other Owner or Occupants. Radio antenna transmitting equipment and other high power electronic equipment on any Parcel shall be subject to regulation by the Board. Loud noises, loud music, objectionable odors, and excessive external lighting, which may be determined by the Board to be objectionable, are prohibited.

M. Laundry and Rubbish. No clothing, linen or laundry of any kind, or any other articles shall be hung out or exposed on any part of a Unit, Parcel or the, Community Facilities. The Community Facilities shall be kept free and clear of rubbish and other unsightly materials. Garbage and recycling materials for municipal collection shall be bagged and placed near the street only on collection days. Garbage shall not be stored outside the unit at any other location.

N. Rules and Regulations. All Units, Parcels and Community Facilities and all activities thereon and therein shall be maintained and conducted in accordance with the rules and regulations adopted by the Board, from time to time.

O. Parking. Parking on the Community Facilities shall be regulated by the Board.

P. Landscaping. Contractor to use a quality landscaping program to enhance the development. The Contractor agrees to install landscaping on each lot.

Q. Prohibition Against Fences and Additional Structures. No accessory structures, including fences, walls or storage sheds, are permitted without written approval of the Board.

R. Plantings. All plantings shown on the initial plans and specifications of the Units and such other plantings as determined appropriate by the P.O.A. shall be completed within thirty (30) days of occupancy, weather

permitting. All front, side and rear yards must be sodded, all of which shall occur within thirty (30) days of occupancy, weather permitting. Each lot shall have one (1) trees, of at least one and three-quarter inches (1-3/4") planted in the parkway. Trees must be of the following varieties, or must be approved in writing by the P.O.A.:

1. Bradford Pear;
2. Marshall Seedless Ash;;
3. Purple Autumn Ash;
4. Red Sunset Maple;
5. Shademaster Locust;
6. Sugar Maple;

Sunburst Locust.

S. Adjacent Golf Course and Facilities. No rights to use or enjoyment of any, facility of Gary Works Supervisors Club Incorporated accrue to any owner, except by virtue of membership in Gary Works Supervisors Club Incorporated. No rights to membership in Gary Works Supervisors Club Incorporated accrue to any owner.

T. Parking Restrictions and Prohibition Against Recreational and Commercial Vehicle Parking and Exterior Storage. No part of any Parcel, including any driveway or parking area which may be in front of or adjacent to any Parcel, may be used as a habitual parking place for any commercial or recreational vehicle, including but not limited to boats, snowmobiles, water jet skis, mobile or recreation homes or trailers, all of which are specifically prohibited. The term "commercial vehicle" shall include all vehicular equipment, in excess of one (1) ton. Storage of any item in the driveway area shall be prohibited; unit owners shall utilize the garage



to park their vehicle. Patio areas and rear yards are intended for recreational purposes, including barbecuing. Storage of unsightly or noxious objects in those areas is prohibited. The habitual violation of this paragraph shall be deemed a nuisance.

U. "Television Antennas, Satellite Dishes and Towers". Television antennas shall not extend over 3 feet above the roofline, Satellite dishes shall be 18" or smaller and no radio antennae or towers are permitted.

V. Area Width and Yard Regulations. Each front yard shall extend across the full width of the lot, which abuts a street.

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SECTION GOLF COURSE COVENANTS

5.01 Easements Permitting the Intrusion of Golf Balls and Golfers. Every unit, and the Common Area and the common property of a Neighborhood is burdened with an easement permitting golf balls unintentionally to come upon such areas and for golfers at reasonable times and in a reasonable manner to come upon the Common Area, common property of a Neighborhood, or the exterior portions of a Unit to retrieve errant golf balls; the golfer shall seek the Owner's permission before entry. The existence of this easement shall not relieve golfer of liability for damage caused by errant golf balls. Under no circumstances shall any of the following persons be held liable for any damage or injury resulting from errant golf balls or the exercise of this easement: the Declarant, the Association or the Members (in their capacity as such) Gary Works Supervisor's Club Incorporated or its successor, successors-in-title, or assigns; any); any officer, director or partner of any of the foregoing, or any officer or director of any partner.

5.02 Easements for Golf Course Water Overspray. The Properties

immediately adjacent to the Golf Course are hereby burdened with a non-exclusive easement in favor of the adjacent Golf Course for Overspray of water from the irrigation system serving the Golf Course. Under no circumstances shall the Association or the owner of the Golf Course be held liable for any damage or injury resulting from such Overspray or the exercise of this easement.

5.03 View Impairment. Neither the Declarant, the Association, nor the owner or operator of any Golf Course guarantees or represents that any view over and across the Golf Course from adjacent Units will be preserved without impairment. The owner of the Golf Course shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in its sole discretion, to add trees and other landscaping to the Golf Course from time to time. In addition, the owner of the Golf Course may, in its sole and absolute discretion, change the location, configuration, size and elevation of the tees, bunkers, fairways and greens on the Golf Course from time to time. Any such additions or changes to the Golf Course may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

5.04 Limitation on Amendments. In recognition of the fact that the provisions of this Article are for the benefit of the owner of the Golf Course, no amendment to this Article, and no amendment in derogation of any rights reserved or granted to the owner of the Golf Course by other provisions of this Declaration, may be made without the written approval of the owner of the Golf Course.

5.05 Jurisdiction and Cooperation. It is Declarant's intention that the Association and the owner of the Golf Course shall cooperate to the maximum extent possible in the operation of the Properties and the Golf Course. Each shall

reasonably assist the other in upholding the Community-Wide Standard. The Association shall have no power to promulgate rules and regulations affecting activities on or use of the Golf Course.

## SECTION VI

### Incorporation of-Association

6.01 Formation of Corporation. The Board at any time may cause to be incorporated a corporation under the laws of the State of Indiana, to facilitate administration and operation of the Property, and to assume the responsibilities of the Association hereunder.

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## SECTION V11

### General Provisions

7.01 Associations. An association shall have all the duties and obligations of an Owner hereunder, provided that the right of an association hereunder shall be derived solely from the Unit Owners who are members thereof, and shall be exercisable by any such association only to the extent permitted by its organizing documentation or by the acts of its Unit Owners, and provided further that an association shall not be obligated to pay any portion of the Common Expenses unless the Association shall elect to require the same from the association in lieu of payments from the individual Unit Owners therein.

7.02 Encumbrances. No Owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the Community Facilities or any other part of the Property other than his own Parcel or Unit.

7.03 Utilities. Each Owner shall pay for any utility service, including his own

telephone, electricity, gas, water, sewage, if such are separately metered or billed to each Unit or Parcel by the respective utility company.

7.04 Separate Real Estate Taxes. It is intended that real estate taxes are to be separately taxed to each Owner for his Unit or Parcel. In the event that for any year such taxes are not separately taxed to an Owner but are taxed on the property or some part thereof, then such Owner shall pay the amount thereof attributable to his Unit or Parcel as shall be determined by the Board.

7.05 Insurance; Parcel Owners. Each Owner shall be responsible for his own casualty insurance for the Unit or Parcel owned by him, and for his own liability insurance for any incident occurring upon his Parcel or within his Unit. Each Occupant of a Unit shall be responsible for insurance on the contents within the Unit, and each Owner and Occupant of a Unit shall be responsible for his own personal liability all to the extent not covered by the liability insurance for all of the Parcel Owners obtained as part of the Common Expenses. Each Unit Owner and Parcel-Owner hereby waives and releases any and all claims which he may have against other Parcel Owners and Unit Owners, the Association, its officers and members of the Board, the Developer, the manager and managing agent of the Community Facilities, if any, and their respective employees and agents, for damage to the Community Facilities, the Units and to any personal property located in a Unit or in Community Facilities caused by fire or other casualty, to the extent that such damage is covered by insurance.

7.06 Negligence of Occupant or Owner. If, due to the negligent act or omission of an Owner or Occupant of a Unit, or a contractor, employee, agent or invitee of such owner or Occupant, damage is caused to the Community Facilities or a Unit owned by another Owner, then such cost shall be paid for by the Owner and



Occupant by or under whom the damage was caused, unless the act or omission is covered by insurance and the insurance proceeds are sufficient to pay for and are applied to all required repairs and/or replacements. The liability of an Owner and Occupant for any such damage is joint and several; and it shall not be a defense that the person causing the damage was not authorized to perform the specific act out of which the damage arose.

7.07 Joint Facilities. To the extent that equipment, facilities and fixtures within Units shall be connected to similar equipment, facilities or fixtures affecting or serving other Units or the Community Facilities, or shall function for the benefit of the Units owned by more than one (1) Owner (including structural members), then the use thereof by an Owner shall be subject to the rules and regulations of the Board. An authorized representative of the Association or the Board, or of the manager or managing agent for the Community Facilities, shall be entitled to reasonable access to any Unit as may be required in for purposes of maintenance, repairs or replacement of or to the Community Facilities or any equipment, facilities, or fixtures affecting or serving other Units or the Community Facilities.

7.08 Abatement and Enjoyment. The violation of any restriction, condition or regulation adopted by the Board, or the breach of any covenant or provision herein contained, shall give the Board the right, in addition to the rights set forth in the next succeeding Section to:

A. Enter upon the Parcel or Unit upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any thing or condition that may exist contrary to the intent and meaning of the provisions hereof, provided, however, that judicial proceedings must be instituted before any items of construction maybe altered or demolished, and the

Board or its agents, shall not thereby be deemed guilty in any manner of trespass;  
or

B. Enjoin, abate or remedy by appropriate legal proceedings (including, but not limited to, a suit for damages), either at law or in equity, the continuance of any breach.

7.09 Service of Notices. Upon Board. Notices required or desired to be given to the Board or the Association may be delivered to any member of the Board or officer of the Association, either personally or by mail, addressed to such member at his last known address. The method for service of such notices may be changed by the Board from time to time, provided that such Voting Members are notified of such change.

7.10 Service of Notices. Upon Owners. Notices required or desired to be given to an Owner may be delivered either to the Owner, or any Co-Owner, or the Voting Member having the privilege of voting with respect to the Unit or Parcel of such Owner, and delivery by mail at the last known address of such person, by personal delivery, or by posting on the door shall be sufficient service thereof.

7.11 Covenants to Run with Land. Each grantee of the Builder, by the acceptance of a deed of conveyance, and each purchaser under Articles of Agreement for Trustee's Deed, or any contract for any deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or served by this Declaration, and all rights, benefits and privileges of each character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest in said land, and shall inure to the benefit

of such Owner in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance.

7.12 Non-Waiver of Covenant. No covenant, restriction, condition, obligation or provision contained in this Declaration shall be deemed to have been abrogated or waived by any failure enforce the same, irrespective of the number of breaches or violations which may occur.

7.13 Amendments to Declaration and By-Laws. This Deep River Pointe P.O.A. reserves the right to make any changes or modifications to the Declaration and/or the By-Laws by a written instrument at any time. Thereafter, this Declaration and/or the By-Laws may be changed, modified, or rescinded by a written instrument setting forth such change, modification or rescission signed and acknowledged by the Board, upon the approval of sixty-seven percent (67%) of the Owner Occupants.

7.14 Right of Action. The Association, and any aggrieved Unit Owner, shall have a right of action against any Unit Owner who fails to comply with the provisions of this Declaration, the By-Laws, Articles of Incorporation, or the rules and regulations promulgated by the Association. Unit Owners shall have a similar right of action against the Association for its failure to comply with the provisions of the above-referenced documents.

7.15 Perpetuities and Restraints on Alienation. The Association may not restrict a Unit Owner's right to sell, transfer, or convey his Unit.

7.16 Ownership by Trust. In the event title to any Parcel is conveyed to a land title holding trust under the terms of which all powers of management, operation and control of the trust property remain vested in the trust beneficiary, then the trust estate under such trust and the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and



for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Parcel; and such beneficiaries shall be entitled to exercise all of the rights and powers of the Owner in title to a Unit or Parcel as fully as if such beneficiary were the Owner of record. Liability shall be asserted against any such title holding trustee personally for the-payment of any claim, lien or obligation or for the performance of any agreement, covenant or undertaking hereby created, and the trustee shall be obligated to sequester funds or trust property to apply in whole or in part thereon, but the amount thereof shall continue to be a charge or lien upon the Parcel, notwithstanding any charges in the beneficial interest of any such trust or transfers of title to such Parcel.

7.17 Indemnity to Board Members. The members of the Board and the officers thereof or of the Association, or any beneficiary or other person exercising the powers of the Board or Association pursuant to Section 6.01 hereof, shall not be liable to any Parcel or Unit Owner for any mistake of judgment, or act or omission made in good faith as such member of officer or acting official. The Unit and Parcel Owners shall indemnify and hold harmless each such member, officer and acting official against all contractual liability to others arising out of contracts made by such member or officer on behalf of the Unit or Parcel Owners or of the Association, unless any such-contract shall have been made in bad faith or contrary to the provisions of this Declaration. Such member or officer shall have no personal liability with respect to any contract made by him on behalf of the Unit or Parcel Owners or the Association. The liability of any owner arising out of the aforesaid indemnity shall be limited to a Proportionate Share of the total liability thereunder.

7.18 Severability. Should any part, term, or provision of this Declaration be declared or decided by any Court to be illegal, or in conflict with the law of Indiana,



the validity of the remaining portions, terms or provisions shall not be affected thereby and said illegal part, term or provision shall be deemed not to be a part of this Declaration.

**7.19 Condemnation, Destruction or Termination.**

**A. Damage or Destruction and Restoration of Buildings.** In case of fire or any other disaster the insurance proceed shall, except as provided in the next succeeding paragraph of this section, be applied to reconstruct the Unit.

In the event of fire or other casualty or disaster loss resulting in less than complete and total destruction of a Building or Unit, the improvements shall be reconstructed and the insurance proceeds applied to reconstruct the improvements. Reconstruction of the improvements, as used in this Section, means restoring the improvements to substantially the same condition in which they existed prior to the fire or other disaster, with each Unit and the Common Areas and Facilities having the same vertical and horizontal boundaries as before.

**B. Condemnation.** In the event that any portion or all of the Property which has been subjected to this Declaration is condemned, the proceeds shall be divided among the Owners in the same percentage as each Owner holds an interest in the Common Areas and Facilities condemned and the property condemned shall be considered removed from the Declaration. The distribution of proceeds shall be subject to the interest of all mortgage lien holders. The Association shall act on behalf of all Owners with regard to the negotiation and/or defense of any condemnation proceedings.

**C. Termination.** The Owners by unanimous vote may remove the Property from the provisions of the Declaration by an instrument to that effect duly recorded provided that holders of any and all liens affecting any of the Units agree

and/or consent thereto and their liens shall be transferred to the percentage of the interest of the owner in the Property. Upon removal of the Property from the provisions of the Declaration, the Property shall be deemed to be owned in common by all the Owners according to their respective percentage ownership interest, which shall be the same as their percentage of interest in the Common Areas and Facilities.

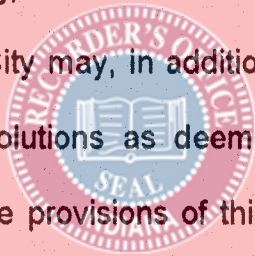
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A. The City of Hobart is hereby declared to be a third party beneficiary of the terms and provisions of this section, and shall have the right to enforce the provisions of this section by specific performance and/or by any other means available at law or in equity, and the Contractor, on behalf of itself and its successors and assigns do hereby waive any and all defenses to such enforcement rights. In addition to the foregoing, Contractor hereby submits the Properties to the jurisdiction of the City, and the City may, in addition to the foregoing, adopt such ordinances, regulations and resolutions as deemed by it to be appropriate to facilitate the enforcement of those provisions of this section which provide for the private Deep River Pointe Phase I.

B. Initial Terms and Extensions. These Restrictive Covenants shall run with the land and shall be binding on all parties, persons, or entities claiming under them or onto the land for a period of twenty (20) years from the date of recording of this document, after which time said Covenants shall automatically extend for successive periods of ten (10) years, unless a signed agreement by sixty-seven percent (67%) (or more) of the then property Owner Occupants has

been recorded, modifying these Covenants in whole or in part.

IN WITNESS WHEREOF, Deep River Pointe P.O.A. has caused this instrument to be executed and attested as of the day and year first above written.

BY George Key Pres.

[Signature]

ATTEST:

H.P. Tezull (TREAS.)

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