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MORRIS W. CARTER  
RECORDER

**DECLARATION OF COVENANTS AND RESTRICTIONS**

**FOR**

**OAK VIEW ESTATES**



MHI  
2300 Rinklewood  
Highland, In  
46322

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**DECLARATION OF COVENANTS AND RESTRICTIONS**  
**FOR**  
**OAK VIEW ESTATES**

*THIS DECLARATION*, made this 15 day of May, 2002 by MHI Development, LLC, a limited liability company (hereinafter referred to as the "Developer").

**WITNESSETH**

*Whereas*, the Developer is the owner of the real estate legally described herein and commonly known as Oak View Estates Subdivision; and

*Whereas*, the Developer desires Oak View Estates Subdivision to develop as a residential community; and

*Whereas*, the Developer desires to promote the orderly development of the subdivision by subjecting the real estate owned by the Developer to the covenants, restrictions, conditions, reservations, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of the subdivision and real estate comprising the development; and

*Whereas*, the Developer deems it desirable to subject the real estate to the said covenants, restrictions, conditions, reservations, easements, charges and liens for the mutual benefit of the real estate and under a general plan and scheme of development and improvement of the subdivision.

**NOW THEREFORE**, the Developer hereby declares that all of the platted lots and real estate located within the Subdivision as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following covenants, restrictions, conditions, reservations, easements, charges and liens, all of which are declared and agreed to be in furtherance of a plan for the improvement of the real estate and sale of the said lots in the Subdivision, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision as a whole and of each of the said lots situated therein.

## ARTICLE I

### DEFINITIONS

The following terms or words, when used in this Declaration, shall have the meanings attributed below:

**Section 1. "Developer"** shall mean MHI Development, LLC, its successors and assigns, if any such successor or assignee acquires the undeveloped portion of Oak View Estates, from the Developer for the purpose of development.

**Section 2. "Lot"** shall mean and refer to any lot or other tract in the Subdivision, together with any and all improvements thereon, as shown on the plat or plats thereof and designated thereon with a number for identification on which a residential structure could be constructed, whether or not one has been constructed.

**Section 3. "Maintenance"** shall mean the exercise of reasonable care, including buildings, roads, easements of ingress and egress, drainage easements, water detention or retention easements, utility easements, parks, landscaping, lighting and other related improvements and fixtures in a condition comparable to their original condition.

**Section 4. "Owner"** shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot, or any dwelling on a Lot if there is more than one dwelling thereon, which is a part of the Subdivision, including the Developer, and including contract sellers, but not including contract purchasers.

**Section 5. "Subdivision"** shall mean and refer to all such existing properties, and additions thereto and less and excepting any retractions therefrom, as are subject to this Declaration and any supplemental Declaration or Declarations, under the provisions of Article II hereof, and shall initially include the real property described in Article II, Section 1.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION; ADDITIONS THERE TO, DELETIONS THEREFROM

**Section 1. Legal Description.** The real property which is and shall be held, transferred, sold, conveyed and occupied, subject to this Declaration, is located in Lake County, Indiana, and comprises all of the Lots, tracts and easements shown and/or platted within or upon the property legally described as follows:

A parcel of land lying in the Northeast Quarter of Section 9, Township 34 North, Range 8 West of the Second Principal Meridian, in the City of Crown Point, Lake County, Indiana, being a portion of land described to Harold & Ellen Schafer in Document Number 355104, recorded June 16, 1976, in the Office of the Recorder of said county, lying South and West of Prairie View, Unit 3, an Addition to the City of Crown Point, as shown in Plat Book 88, Page 59, in said Recorder's Office, also lying West of a parcel of land described to John & Judith Wehner in Document Number 662468, recorded March 17, 1982, in said Recorder's Office, said parcel being more particularly described as follows: Beginning at the Southwest corner of said Northeast Quarter as marked by a 3/4-inch iron pipe, thence North 00 Degrees 04 Minutes 34 Seconds West, 528.55 feet along the West line of said Northeast Quarter to the South line of Lot 162 in said Prairie View, Unit 3; thence South 90 Degrees 00 Minutes 00 Seconds East, 1099.82 feet along the South lines of Lots 162 through 150 (both inclusive) of said Prairie View, Unit 3, to the West right-of-way line of South Madison Street; thence South 00 Degrees 04 Minutes 30 Seconds East, 212.79 feet along said West right-of-way line to the South line of Lot "S" in said Prairie View, Unit 3, extended; thence South 89 Degrees 49 Minutes 27 Seconds East, 80.00 feet along said extension to the West line of the East 1464 feet of said Northeast Quarter; thence South 00 Degrees 04 Minutes 30 Seconds East, 327.09 feet along last said West line to the South line of said Northeast Quarter; thence North 89 Degrees 26 Minutes 17 Seconds West, 1179.88 feet along the South line of said Northeast Quarter to the Point of Beginning. Containing 14.08 acres more or less.

**Section 2. Platting and Subdivision Restrictions.** Developer shall be entitled at any time and from time to time, to plat, replat or vacate existing plattage of all or any part of the real estate subjected to this Declaration, and to file subdivision restrictions and/or amendments thereto with respect to any undeveloped portion, or portions of, or additions to the Subdivision.

**Section 3. Retractable Real Estate.** At the sole election of the Developer, all of the real estate specifically described in Section 1 of this Article and subject to this Declaration may be withdrawn from submission hereunder at one time, or portions thereof at different times; provided, however that no real estate may be withdrawn which has been developed. All Owners and mortgagees are hereby deemed to consent to the vacation, and waive all right to remonstrate thereto, of any portion of the plat of the Subdivision not developed in which the Developer has withdrawn from this Declaration.

**Section 4. Easements.** There are platted on the plat of the Subdivision certain easements which shall be and are hereby reserved for the installation, construction, maintenance, repair or replacement of any and all public utilities and drainage and their poles, ducts, wires, pipelines, lines, conduit, sewers, manholes or other related utility or drainage facility. No permanent structure shall be erected or allowed to be maintained on any easement. No Owner shall grant

an easement, license or permit others to use any Lot, or portion thereof, in the Subdivision for access to any property or real estate not located within the Subdivision. Developer also reserves for itself the non-exclusive right and power to grant, modify or expand such specific easements as may be necessary, in Developer's sole discretion, in connection with the orderly development of the Subdivision. The Owner of any property to be burdened by any easement granted pursuant to this Section shall be given written notice in advance of the grant. The location of the easement shall be subject to the written approval of the Owner of the burdened property, which approval shall not unreasonably be withheld, delayed, or conditioned.

### ARTICLE III

#### PROPERTY RIGHTS

**Section 1. Drainage Easements.** Easements for installation and maintenance of utilities and drainage facilities as shown on the recorded plat or plats of the Subdivision. Within these easements, no structure, planting other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, impede, or change the direction of flow of drainage facilities in the easements. The easement areas shown on each Lot and all improvements thereon shall be continuously maintained by the Owner of such Lot or dwelling, except for improvements for maintenance of which a public authority or utility company is responsible. No dwelling unit or other structure of any kind shall be built or erected or maintained on any such easement, reservation or right-of-way, and such easements, reservations and rights-of-way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to Developer, its successors and assigns of the right to use and enjoy the same non-exclusive easements, for the benefit of additional real estate owned or later acquired by Developer located or real estate contiguous to the Subdivision.

**Section 2. Right of Entry.** The Developer through its duly authorized employees and contractors, shall have the right, after reasonable notice to the Owner thereof, to enter any Lot or tract of real estate at any reasonable hour on any day to perform such maintenance as may be authorized herein.

### ARTICLE IV

#### USE RESTRICTIONS

**Section 1. Residential Use.** The real estate subject to these covenants and restrictions may be used for two-family residential living units and for no other purpose. There shall be no more two (2) principal dwellings on any one (1) Lot. No business or commercial building may be erected on any Lot. Any and all business, trade, or similar activity is prohibited, except that

an Owner or occupant residing in a dwelling on a Lot may conduct business activities within the dwelling so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the dwelling; (ii) the business activity conforms to all zoning requirements; (iii) the business activity does not involve door-to-door solicitation of residents of the Subdivision; (iv) the business activity does not generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in the Subdivision which is noticeably greater than that which is typical of dwellings in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the Subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subdivision. The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

**Section 2. No Temporary Building.** No structure of a temporary character, such as a trailer, basement, tent, shack, garage, barn, or other building shall be used in the Subdivision at any time as a residence, either temporarily or permanently.

**Section 3. Antennae.** No exposed radio or television antennae or solar heat panels shall be allowed on any residence on any Lot which is visible from outside such residence. Satellite dish antennae, the dish for which does not exceed eighteen (18) inches in diameter, shall be permitted.

**Section 4. Boats and Motor Vehicles.** No boats, recreational vehicles or other motor vehicles, except four-wheel passenger automobiles, shall be placed, parked or stored upon any Lot for more than forty-eight (48) hours, nor shall any maintenance or repair be performed upon any boat or motor vehicle upon any Lot, except within a fully enclosed building and totally isolated from public view.

**Section 5. Artificial Vegetation.** No artificial grass, plants or other artificial vegetation shall be placed or maintained upon the exterior portion of any Lot, unless approved by the Developer.

**Section 6. Automobile Storage Areas.** All homes erected upon a Lot shall have a garage attached to and architecturally consistent with the home. No automobile garage shall be permanently enclosed or converted to other use without the substitution of another enclosed automobile storage area upon the Lot. No carports shall be permitted unless approved by the Developer and all garages shall be at least adequate to house two (2) and not more than three (3) standard size American automobiles. All garages must have doors that are to be maintained in useable condition.



**Section 7. Clothes Drying Area.** No portion of any Lot shall be used as a drying or hanging area for laundry of any kind, it being the intention hereof that all such facilities shall be provided within the building to be constructed on a Lot.

**Section 8. Animals.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot. However, dogs, cats and other common household pets may be kept on Lots so long as they are not kept, bred, or maintained for commercial purposes. No animals shall be allowed to run loose at any time.

**Section 9. Rubbish Trash and Garbage.** No rubbish, trash, garbage or other waste materials shall be kept or permitted on any Lot, except in sanitary containers.

**Section 10. Fences.** Fences no greater than six feet (6') in height may be constructed around the side and rear yards of any Lot in the Subdivision. A greater height may be allowed if the same is required by ordinance or statute around a swimming pool. Chain link fences are prohibited from use anywhere in the Subdivision.

**Section 11. Nuisances.** Nothing shall be done or maintained on any Lot which may be or become a nuisance to the neighborhood.

**Section 12. Signs.** Except as hereinafter provided for Developer, no advertising signs, billboards, unsightly objects, or nuisances shall be erected, placed, or permitted to remain on any Lot subject to this Declaration. Political yard signs (not larger than nine square feet in size) may be placed in yards thirty (30) days prior to primary, general or special election but must be removed on the day following said election. An Owner may place one professional sign on any Lot or Lots advertising the Lot or Lots for sale.

**Section 13. Model Homes.** No Owner of any Lot in the Subdivision other than Developer or persons having the written permission of Developer shall build, or permit the building upon any such Lot of any dwelling that is to be used as a model home or exhibit house.

**Section 14. Building Method.** All dwellings constructed on Lots in the Subdivision shall be erected from new materials assembled and constructed on the Lot. No dwelling previously constructed elsewhere shall be moved to a Lot in the Subdivision. Unless approved by the Developer, manufactured homes, modular homes, mobile homes or other similar building methods are prohibited. For purposes of this paragraph, a "manufactured home" shall mean a structure that (i) is assembled in a factory, (ii) bears a seal certifying that it was built in compliance with the federal manufactured housing construction and safety standards law (42 U.S.C. 5401 *et seq.*); (iii) is designed to be transported from the factory to another site in one (1) or more units; (iv) is suitable for use as a dwelling in any season; and (v) is more than thirty-five (35) feet long.

**Section 15. Residential Setback Requirements.** All dwellings or houses and above-grade structures designed to be used in connection therewith shall be constructed or placed on Lots in the Subdivision so as to comply with the setback lines as established in the plat or plats of the various portions of the Subdivision and the local zoning codes and ordinances without variance or deviation unless approved by the local Board of Zoning Appeals and the Developer.

**Section 16. Accessory Buildings.** Accessory buildings not exceeding one hundred (100) square feet in size shall be permitted. All allowable accessory buildings shall meet all setback requirements and must be white or match the color of the principal dwelling on the Lot. No accessory building shall be erected prior to erection of a principal dwelling or house.

**Section 17. Minimum Floor Area.** All two-family residential structures shall have a minimum total useable area of 1,200 square feet per side. The computation of square footage shall exclude porches, breezeways, garages and basements. All construction shall be in accordance with two-family zoning requirements effective in the Crown Point.

**Section 18. Exterior Construction.** All structures shall be required to meet the following minimum standards for exterior materials in the construction:

A. Roofing materials shall be made of premium asphalt shingles, wood shakes, slate or simulated slate, standing seam metal, tile, or similar premium roofing material.

B. Exterior colors of buildings and accessory buildings must blend rather than conflict with buildings on adjoining Lots.

C. Sidewalks shall be installed by the Owner in accordance with the recorded plat. Sidewalks shall be constructed of Portland cement concrete. Each Owner is responsible for maintenance and replacement of the sidewalk located on his or her Lot. Sidewalks must run continuous through the driveway. Any sidewalk not installed in accordance with these guidelines or the laws and requirements of the City of Crown Point must be removed and corrected. In the event the incorrectly installed sidewalk is not corrected by the Owner, the Developer may initiate removal of the sidewalk and replacement for the Owner without consent of the Owner but at the Owner's expense.

D. No structure shall have metal prefabricated flues or solar panels that extend above the highest roof line.

**Section 19. Owner's Obligation to Maintain Lot.** Each Owner in the Subdivision shall at all times maintain the Lot, real estate and improvements in such a manner as to prevent the Lot and improvements from becoming unsightly, and specifically such Owner shall (a) mow and otherwise tend to the landscaping on the Lot as such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds five inches (5") or less in height; (b) cut down and remove dead trees; (c) remove all debris and rubbish and prevent the existence

of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Lot or Subdivision; and (d) keep the exterior of the improvements in such a state of repair or maintenance as to avoid the improvements from becoming unsightly.

**Section 20. Well and Septic Tanks.** No water wells shall be drilled on any of the Lots in the Subdivision without the approval of the Developer. No septic tanks shall be installed on any Lot.

**Section 21. Destruction of Dwelling.** No improvement which has partially or totally been destroyed by fire, windstorm or other casualty shall be allowed to remain in such state for more than three (3) months from time of such destruction or damage.

**Section 22. Prohibition of Used Structures.** All structures constructed or placed on any Lot in the Subdivision shall be constructed with substantially all new material, and no used structures shall be relocated or placed on any such Lot.

**Section 23. Necessary Exceptions for Developer.** Developer, or the transferees of Developer, shall undertake the work of developing all Lots included within the Subdivision. The completion of that work and the sale, rent, or other disposition of the dwellings is essential to the establishment and welfare of the Subdivision as an on-going residential community. In order that such work may be completed and the Subdivision established as a fully-occupied residential community as soon as possible, nothing in this Declaration shall be understood or construed to prevent the Developer, Developer's transferees, or the employees, contractors or sub-contractors of Developer, or of Developer's transferees, from doing whatever they may determine to be reasonably necessary or advisable for the completion of the work and the establishment of the Subdivision as a residential community, and the disposition of Lots by sale, lease or otherwise. Owner, upon commencement of construction of any residence, dwelling unit or other structure, which is not prohibited by this Declaration shall pursue the performance of any construction diligently and continuously until completion of the structure involved. As used in this Section, the words, "its transferees" specifically exclude purchasers of an individual Lot or Lots improved with completed residences or intended for construction at a later date by someone other than the Developer.

## ARTICLE V

### GENERAL PROVISIONS

**Section 1. Duration and Remedies for Violation.** The covenants and restrictions of this Declaration shall run with and bind the real estate submitted pursuant to Article II hereof, and shall inure to the benefit of and be enforceable by the Developer or any Owner, their respective legal representatives, heirs, successors and assigns, for a term of fifteen (15) years from the date this Declaration is recorded, after which time said covenants and restrictions shall automatically

be extended for successive periods of ten (10) years unless amended as provided for elsewhere in this Declaration. Violation or breach of any condition, covenant or restriction herein contained shall give the Developer or Owner (or any two or more of them in concert or individually) in addition to all other remedies, the right to proceed at law or in equity to compel a compliance with the terms of said conditions, covenants or restrictions, and to prevent the violation or breach of any of them, and the expense of such litigation shall be borne by the then Owner or Owners of the subject property, provided such proceeding results in a finding that such Owner was in violation of said covenants or restrictions. Expenses of litigation shall include reasonable attorneys' fees incurred by Developer in seeking such enforcement but attorney fees specifically shall not be allowed to an Owner enforcing these restrictions, unless granted by a Court and based upon an independent finding of entitlement to such damages.

**Section 2. Owner's Obligation to Maintain and Repair.** Each Owner shall, at Owner's sole cost and expense, maintain and repair Owner's residence, keeping the same in a condition comparable to the condition of such residence at the time of its initial construction.

**Section 2. Self-Help.** In addition to any other remedies provided for herein, the Developer or its duly authorized agent shall have the power to take such remedial action, activity or otherwise perform or take such action or obligation of a defaulting Owner to bring a Lot into compliance with this Declaration. The Developer or its duly authorized agent may enter upon a Lot or any portion of the Subdivision (including Common Area, if any) to abate or remove, using such force as may be reasonably necessary, any construction, erection, thing or condition which violates this Declaration, the Architectural Guidelines, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Developer shall give the violating Lot Owner five (5) days' written notice of its intent to exercise remedial activity (self-help). All costs of the Developer remedial activity (self-help), together with interest at the rate of twelve percent per annum, including attorneys' fees actually incurred shall be assessed against the violating Owner and shall be collected as provided for herein. No liability shall be assumed or imposed by the Developer's exercise or failure to exercise such remedial activity. Notwithstanding the foregoing, in the event of an emergency or the blockage or material impairment of the easement rights granted hereunder, the Developer may immediately cure the same and be reimbursed by the defaulting Owner upon demand for the reasonable cost thereof together with interest as above described.

- A. **Lien Rights.** All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs, and reasonable attorneys' fees actually incurred, as provided herein, shall be secured by a lien on such Lot in favor of the Developer. Such lien shall be recorded by the Developer with the Lake County Recorder. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (i) liens of ad valorem taxes or (ii) all liens recorded in the Office of the Recorder of Lake County, Indiana is prior to the date of recordation of said notice of lien. All liens recorded subsequent to the recordation of the notice of lien priority described herein, shall be junior and subordinate to the Developer's lien.

Upon the timely curing by the defaulting Owner of any default for which a notice of lien priority was recorded, the party recording same shall record an appropriate release of such lien.

- B. **Enforcement and Foreclosure of Lien.** In the event that the Developers lien and assessment remains unpaid, the Developer may institute suit to collect such amounts and to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Developer or its agents the right and power to bring all actions against him or her, personally, or all persons or parties in title, jointly and severally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property (*e. g.* mechanics and materialmen's liens). The lien provided for in this Article shall be in favor of the Developer. The Developer may bid on the Lot at any foreclosure sale or acquire and hold, lease, mortgage, or convey the Lot. No Owner may waive, purge himself, or otherwise except liability for the obligations of this Declaration provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot.
- C. **Priority of Application of Payment.** All payments shall be applied first to costs and attorneys' fees, then to late charges, then to interest, then to delinquent charges or assessments which are the subject matter of suit.
- D. **Remedies Cumulative.** The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

**Section 4. Notices.** Any notices required to be sent to any Owner under the provision of this Declaration shall be deemed to have been properly sent when mailed, postage paid, to the last known address of the person who appears as owner on the records of the Lake County Auditors official property tax records at the time of such mailing.

**Section 5. Severability.** Invalidation of any one or more of these covenants and restrictions by judgment or Court Order shall in no way affect any other provisions which shall remain in full force and effect.

**Section 6. Amendment.** This Declaration may be amended, modified or terminated at any time and from time to time upon the execution and recordation of an instrument executed by not less than two-thirds (2/3) of the Owners, provided that so long as Developer is the Owner of any Lot or any property affected by this Declaration, said amendment shall not be effective without Developer's express written joinder and consent. The Developer may unilaterally amend or modify this Declaration or the Architectural Guidelines at any time so long as Developer is the Owner of any Lot or any property affected by this Declaration and all Owners, mortgagees and others having a property interest in any Lot are hereby deemed to consent to the Developer's

amendment or modification that shall be made in writing and recorded in the Office of the Recorder of Lake County, Indiana.

**Section 7. Usage.** Whenever used the singular shall include the plural and singular, and the use of any gender shall include all genders.

**Section 8. Effective Date.** This Declaration or any amendment hereto shall become effective upon its recordation in the Office of the Recorder of Lake County, Indiana.

*IN WITNESS WHEREOF*, the Developer has caused this Declaration of Covenants and Restrictions to be executed on the date first written above.

MHI Development, LLC

By: *Ronald W. McFarland*  
Ronald W. McFarland  
Member

STATE OF INDIANA )

COUNTY OF )

**Document is NOT OFFICIAL!**

**This Document is the property of the Lake County Recorder!**

Before me, the undersigned, a Notary Public for said County, in the State of Indiana, personally appeared Ronald W. McFarland, a Member of MHI Development, LLC and acknowledged the execution of the foregoing instrument to be his free and voluntary act. Signed and sealed this 15 day of May, 2002.

My Commission Expires: 5-13-09

*Roxanne A. Hornyak*  
Notary Public  
County of Residence: LAKE

This Instrument Prepared By:  
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