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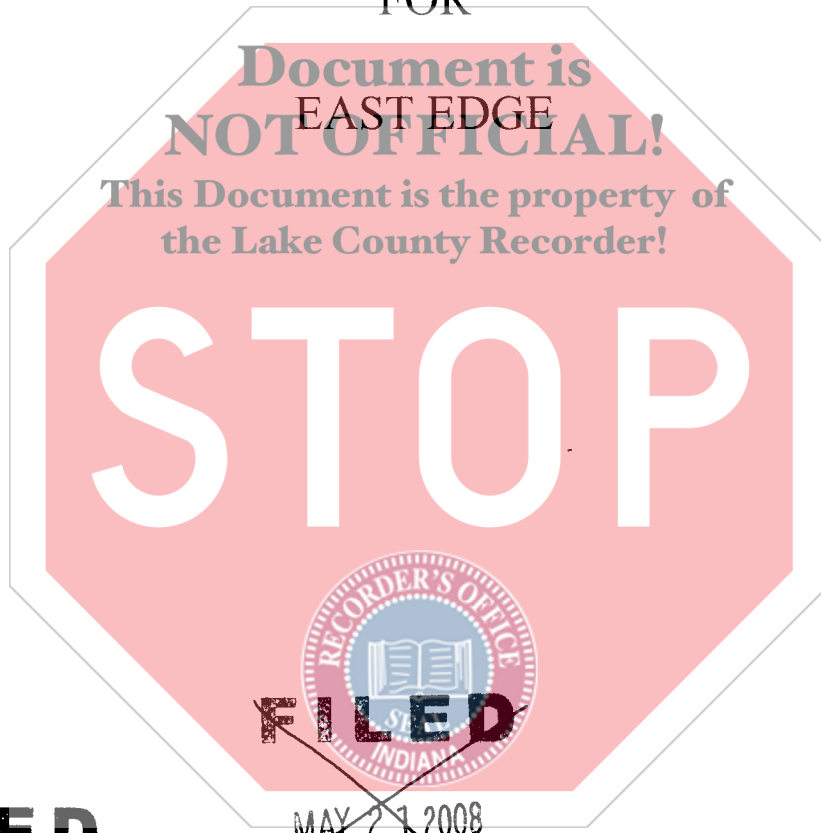
STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

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RECORDED  
MICHAEL A. BROWN  
RECORDER

AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS

FOR



**FILED**

JUN 20 2008

PEGGY HOLINGA KATONA  
LAKE COUNTY AUDITOR

MAY 21 2008

PEGGY HOLINGA KATONA  
LAKE COUNTY AUDITOR

*[Handwritten initials]*

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AMENDED AND RESTATED  
DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
EAST EDGE

*THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS FOR EAST EDGE*, made this 25 day of April, 2008, by East Edge, LLC (hereinafter referred to as the "Developer").

WITNESSETH

Whereas, Developer executed the Declaration of Covenants and Restrictions for East Edge dated the 20<sup>th</sup> day of June, 2007, and recorded on the 12<sup>th</sup> day of July, 2007 as Document Number 2007 057971 in the Office of the Recorder of Lake County, Indiana (the "Declaration"); and

Whereas, pursuant to Article XII, Section 5 of the Declaration, the Declaration may be amended, modified, or terminated at any time and from time to time upon the execution and recordation of an instrument amended upon the affirmative vote or written consent, or any combination thereof, of at least a majority of the Owners; and

Whereas, the Developer represents a majority of the Owners and desires to amend and restate the Declaration and reaffirm said submission and intends that the Owners, mortgagees, occupants, and other persons or entities acquiring any interest in the property described in the Declaration shall hold their interest subject to the rights, easements, privileges, and restrictions hereinafter set forth and contained in the Declaration; and

Whereas, the Developer is the owner of the real estate legally described herein and commonly known as East Edge; and

Whereas, the Developer desires East Edge to develop as a residential community consisting of Single Family Homes and Townhomes, which shall be units joined together by a common wall, and foundation; and

Whereas, the Developer desires to promote the orderly development of the Subdivision and to provide for the maintenance of common area 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. This Amended and Restated Declaration of Covenants and Restrictions for East Edge is executed and placed of record in the Office of the Recorder of Lake County, Indiana, to amend and restate the Declaration as follows:

## Article I

### DEFINITIONS

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

**Section 1.** “**Association**” shall mean and refer to East Edge Property Owners Association, Inc., an Indiana not-for-profit corporation.

**Section 2.** “**Board**” shall mean the Board of Directors of the Association.

**Section 3.** “**Committee**” shall mean the Architectural Control Committee for the Subdivision which is created and shall have the authority and duties as provided for herein.

**Section 4.** “**Common Area**” shall mean all real estate, whether in one or more separate parcels, which the Association or the Developer owns for the non-exclusive common use and enjoyment of the Owners of Lots shown on the recorded Subdivision plat or plats.

**Section 5.** “**Developer**” shall mean East Edge, LLC, its successors and assigns, if any such successor or assignee acquires the undeveloped portion of East Edge from the Developer for the purpose of development.

**Section 6.** “**Dwelling Unit**” shall mean a Single Family Home or Townhome.

**Section 7.** “**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 8. “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 9. “Owner”** shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot or portion thereof which is a part of the Subdivision, including the Developer, and including contract sellers, but not including contract purchasers.

**Section 10. “Member”** shall mean every person or entity holding membership in the Association.

**Section 11. “Single Family Home”** shall mean a detached single family structure erected on one Lot.

**Section 12. “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.

**Section 13. “Townhome”** shall mean one quarter ( $\frac{1}{4}$ ) of a four family structure that is erected over two (2) separate Lots, but which are joined together by a common wall and foundation. Each Townhome roof shall be separate and distinct.

## 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 the City of Gary, 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:

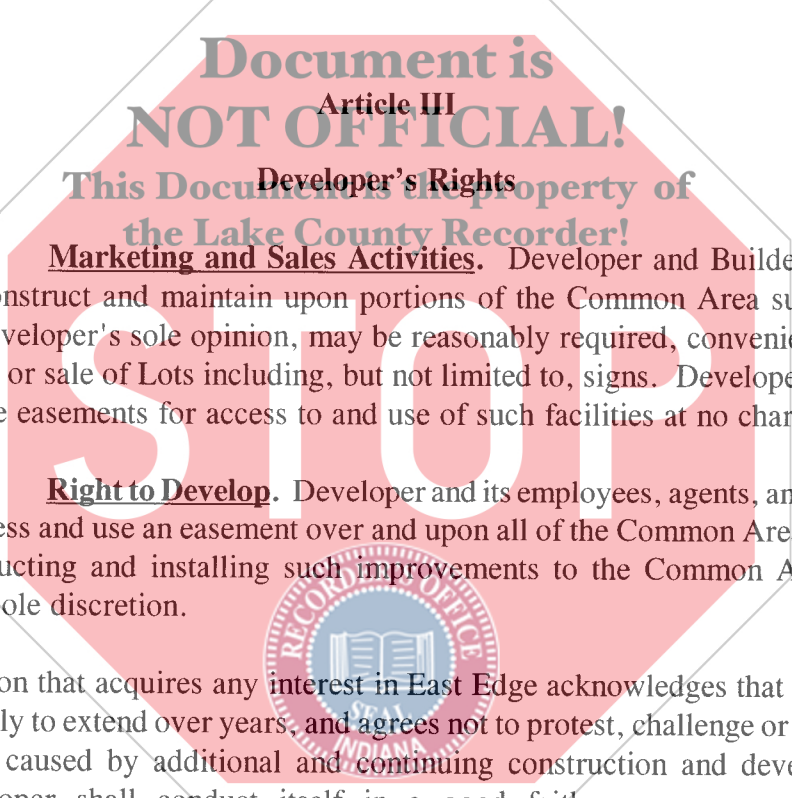
East Edge, as per plat thereof recorded July 17, 2007 as Document  
No. 2007 057970 in the Office of the Lake County Recorder.

**Section 2. Platting and Subdivision Restrictions.** The 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, mortgagees and the Association 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 for the ingress and egress to each Townhome, and 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 unless authorized by the Association. 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.



**Section 1. Marketing and Sales Activities.** Developer and Builders authorized by Developer may construct and maintain upon portions of the Common Area such facilities and activities as, in Developer's sole opinion, may be reasonably required, convenient, or incidental to the construction or sale of Lots including, but not limited to, signs. Developer and authorized Builders shall have easements for access to and use of such facilities at no charge.

**Section 2. Right to Develop.** Developer and its employees, agents, and designees shall have a right of access and use an easement over and upon all of the Common Area for the purpose of making, constructing and installing such improvements to the Common Area as it deems appropriate in its sole discretion.

Every Person that acquires any interest in East Edge acknowledges that the development of East Edge is likely to extend over years, and agrees not to protest, challenge or otherwise object to inconveniences caused by additional and continuing construction and development by the Developer. Developer shall conduct itself in a good faith manner so as to limit such inconveniences.



**Section 3. Right to Approve Additional Covenants.** No Person shall Record any declaration of covenants, conditions and restrictions, or similar instrument affecting any portion of East Edge without Developer's prior review and written consent. Any attempted recordation of such an instrument without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed and recorded by Developer.

**Section 4. Right to Approve Changes in East Edge Standards.** No amendment to or modification of any restrictions and rules or Design Guidelines shall be effective without prior notice to and the written approval of Developer so long as Developer owns property subject to this Declaration or which may become subject to this Declaration.

**Section 5. Right to Transfer or Assign Developer's Rights** . Any or all of Developer's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Developer has under this Declaration or the By-Laws. No such transfer or assignment shall be effective unless it is in a written instrument Developer signs and records. The foregoing sentence shall not preclude Developer from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Developer in this Declaration where Developer does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Developer's consent to such exercise.

**Section 6. Exclusive Rights To Use Name of Development.** No Person shall use the name "East Edge" or any derivative of such name or in logo or depiction in any printed or promotional material without Developer's prior written consent.

However, Owners may use the name "East Edge" in printed or promotional matter where such term is used solely to specify that particular property is located within East Edge and the Association shall be entitled to use the words "East Edge" in its name.

**Section 7. Easement to Inspect and Right to Correct.** Developer reserves for itself and others it may designate, the right to inspect, monitor, test, redesign, and correct any structure, improvement or condition which may exist on any portion of the property within East Edge, including Lots, and a perpetual nonexclusive easement of access throughout East Edge to the extent reasonably necessary to exercise such right. Except in an emergency, entry onto a Lot shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

**Section 8. Termination of Rights** . The rights contained in this Article shall not terminate until the earlier of (a) 40 years from the date this Declaration is Recorded; or (b) recording by Developer of a written statement that all sales activity has ceased.

## Article IV

### PROPERTY RIGHTS

**Section 1. Title to Common Area** . Developer may retain the legal title to the Common Area, so long as it owns at least one Lot in the Subdivision. On or before conveyance by Developer of the last Lot which Developer owns in the Subdivision, Developer shall convey the Common Area to the Association which shall accept the same subject to taxes for the year of conveyance and to restrictions, conditions, limitations, reservations and easements of record; subject, however, to a reservation hereby perpetually reserved to the Developer, its successors and assigns, of the non-exclusive right to use and enjoy the common utility easements, easements of drainage, and ingress and egress easements for the benefit of real estate owned or to be owned by the Developer located on real estate which is contiguous to the Subdivision.

**Section 2. Owners' Easements of Enjoyment**. Every Owner of a Lot shall have a non-exclusive common right and easement of enjoyment and ingress and egress in and to the Common Area which shall be appurtenant to and shall pass with the title to each Lot, subject to the following:

- A. The right of the Association to take such steps as reasonably necessary to protect the above-described properties against foreclosures;
- B. All provisions of this Declaration, any plat of all or any part or parts of the property, and the Articles and By-Laws of the Association;
- C. Rules and Regulations governing the use and enjoyment of the Common Area adopted by the Association;
- D. Restrictions contained on any and all plats of all or any part of the Common Area or filed separately with respect to all or any part or parts of the property; and
- E. Easements for installation and maintenance of landscaping, utilities and drainage facilities as shown on that portion of the recorded plat of the East Edge of which this Declaration is subject to. Within these easements, no structure, planting, or 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, 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.

- F. The right of the Developer to dedicate in the future Common Area as provided for herein.

**Section 3. Owners' Easements to Townhomes.** Each corner of the Subdivision shall contain a building consisting of four (4) Townhomes. Each corner property containing Townhomes will have a road across it for ingress and egress to the Townhomes, as depicted in the site plan, attached hereto and incorporated herein as Exhibit "A". These roads shall be known as the Easement Parcels.

- A. **Grant of Easements.** Each Townhome Owner, his or her respective successors and assigns do hereby grant and convey a nonexclusive common right and easement for ingress and egress together with the full and free right for each other Townhome Owner of the Subdivision, and his or her successors and assigns, invitees, vendors or licensees in common with all others having like right, at all times hereafter with or without automobile or other vehicles or on foot, for the purpose of ingress and egress to and from any portion of the Townhome Owner's Townhome and to pass and repass on, over and across the Easement Parcels.

Each Townhome Owner, his or her respective successors and assigns also grants to the Board, its successors and assigns, the right to enter the Easement Parcels for the purpose of constructing, repairing, and replacing the road; conducting lawn maintenance and landscaping, collecting refuse, removing snow, and any other action required herein.

- B. **Maintenance.** The Board shall maintain, repair, and clean the areas of ingress and egress located within the Easement Parcel. Such maintenance shall include, without limitation, keeping the same in good condition and repair and keeping the same reasonably free and clear of foreign objects, obstructions, standing water, snow and ice.
- C. **Easements for Utilities Serving More Than One Townhome.** No Owner shall own any pipes, wires, cables, ducts, conduits, chimneys, public utility lines or other structural components running through a Townhome and serving more than one Townhome, whether or not such items shall be located in the floors, ceiling or perimeter or interior walls of the Townhome, except as a tenant-in-common with all other Owners benefitted thereby. The Developer, Association and each Owner benefitted shall have an easement in common with each other to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities located in any of the other Townhome and serving his Townhome.

**D. Easements to Run with the Land.** The easement granted, conveyed and created herein along with all covenants, promises and agreements shall run with the land and be binding upon and inure to the benefit of the parties hereto and their successors and assigns, and all persons holding under or through the parties hereto, their respective mortgagees (and any party claiming by, through or under such mortgagee and any purchaser at any foreclosure sale), lessees, sublessees and their employees, agents, customers, licensees and invitees.

**Section 4. Right of Entry.** The Developer and the Association, through their duly authorized employees and contractors, shall have the right 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.

**Section 5. No Partition.** There shall be no judicial partition of the Common Area, nor shall Developer, or any Owner or any other person acquiring any interest in the Subdivision, or any part thereof, seek judicial partition thereof of the Common Area. However, nothing contained herein shall be construed to prevent judicial partition of any Lot owned in cotenancy.

**Article V**

**MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION**

**Section 1. Purpose of the Association.** The primary purpose of the Association shall be to insure high standards of maintenance and operation of all property and real estate in the Subdivision, including that property reserved by the Developer for the detention and management of storm water easements, to insure the provision of services and facilities of common benefit, and in general to maintain and promote the desired character of the Subdivision. In addition, the Association shall consider its primary purpose to manage and support financially all real estate owned by the Association, if any, as well as the storm drainage detention easements located within the Subdivision.

**Section 2. Creation of the Association.** As soon as is practicable before or following the recordation of this Declaration, Developer shall cause the Association to be incorporated as an Indiana Not-for-Profit Corporation. Prior to the appointment of the Board of Directors by the Developer, responsibility for the control of the Association shall remain the exclusive responsibility and obligation of the Developer or its designated agents and employees.

**Section 3. Membership.** Every Owner, including the Developer, at all times so long as the Owner owns all or any part of the property subject to this Declaration, shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from ownership of any Lot which is subject to assessment.

**Section 4. Board of Directors.** The Association shall have a Board of three (3) Directors who shall constitute the Board of Directors

- A. The Directors and Officers of the Association shall not be liable to any Owner for any mistake of judgment or any acts or omissions made in good faith by such Director or Officer. The Owners shall indemnify and hold harmless each of the Directors or Officers against all liability arising out of contracts made by such Directors or Officers on behalf of the Owners and Members of the Association, unless any such contracts shall have been made in bad faith or contrary to the provisions of this Declaration.
- B. The Board shall have the authority to and shall obtain comprehensive public liability insurance, as it shall deem desirable, and other liability insurance or insurances as it may deem appropriate in the circumstances. The premiums for such insurance shall be an expense to be paid by the Association.

**Section 5. Powers and Duties of the Association.** The Board of Directors of the Association shall have all of the powers set forth in its Articles of Incorporation, together with all other powers that belong to it by law in this Declaration:

- A. To own, maintain and otherwise manage the storm drainage detention basins and Common Area located within the Subdivision and vacant and unimproved property, if any, and to do any and all other things necessary or desirable in the sole judgment of the Officers or Directors of the Association.
- B. To care for and maintain the landscaping, plantings, irrigation system, and signs located within the Common Areas of the Subdivision in a good and neat appearance, except landscaped plantings made by an Owner in an area approved by the Association.
- C. To cut the grass of the all Lots and remove snow from sidewalks and driveway, from curb to home, of all Lots. To maintain flowers, bushes, shrubs, trees, or other plant life on the Owner's Lots.
- D. To make such improvements to the facilities under its control within the Subdivision, and to provide such other facilities and services as may be authorized from time to time by the affirmative vote of a simple majority of the Members of the Association acting in accordance with its constitution and By-laws provided, however, that any such actions so authorized shall always be for the express purpose of keeping the Subdivision a highly desirable and exclusive residential community.
- E. Until such time as the Board of Directors is duly elected, all the powers and duties enumerated above shall be exercised exclusively by the Board of Directors, as

appointed by the Developer. The Developer, at Developer's discretion may appoint Owners to serve on the Board of Directors at such time as it deems appropriate. The first elected Board shall be elected not later than one year after 100% of those Lots which have been subjected to this Declaration have been sold and title has been conveyed from the Developer to an Owner. All Owners of record who have been subjected to this Declaration shall be eligible to vote for said Board. All Directors of the first elected and all subsequent Boards of Directors of the Association, shall be nominated and elected pursuant to the By-laws of the Association.

## Article VI

### COVENANT FOR MAINTENANCE ASSESSMENTS

**Section 1. Creation of Lien and Personal Obligation of Assessment.** The Developer, for each Lot owned by it within the Subdivision, hereby covenants and each Owner of any Lot (by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance) including any purchaser at a judicial sale, shall hereafter be deemed to covenant and agree to pay to the Association any annual assessments or charges, and any special assessments for capital improvements or major repair; such assessments to be fixed, established and collected from time to time as hereinafter provided. All such assessments, together with interest thereon from the due date at the rate of ten (10%) per cent per annum, and costs of collection thereof (including reasonable attorneys' fees), shall be a charge on the real estate and shall be a continuing lien upon the Lot or Lots against which each such assessment is made, and shall also be the personal obligation of the Owner. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment, or otherwise.

**Section 2. Purpose of Assessment.** The annual and special assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Subdivision, including but not limited to the following:

- A. Improvement, maintenance, repair, landscaping and grass cutting of the Common Area;
- B. Grass cutting of all Lots and removal of snow from sidewalks and driveways, from curb to home of all Lots. Snow shall not be removed from City sidewalks. Shrubs shall be trimmed at least annually. The Association will maintain flowers, bushes, shrubs, trees, or other plant life on the Owner's Lots, including maintenance of grasses.
- C. Water, sewer, garbage, electrical lighting, telephone, gas and other necessary utility services for the Common Area;

- D. Maintenance and repair of all storm drains, drainage easements, storm water detention or retention easements, sanitary sewers, parks, private roads, and easements shown on the plat or plats of the East Edge recorded in the Office of the Recorder of Lake County, Indiana.
- E. Fire insurance covering the full insurable replacement value of all improvements located on the Common Area with extended coverage;
- F. Liability insurance insuring the Association and the Board, as well as each Director in their individual capacity, against any and all liability to the public, to any Owner, or to the licensees, invitees, or tenants of any Owner arising out of their occupation and/or use of the Common Area. The policy limits shall be set by the Association and shall be reviewed at least annually and increased or decreased in the discretion of the Association;
- G. Worker's compensation insurance to the extent necessary to comply with the Indiana law, and any other insurance deemed necessary by the Board;
- H. Acquisition of furnishings and equipment for the Common Area as may be determined by the Association, including without limitation, all equipment, furnishings, and personnel necessary or proper for use of the Common Area.
- I. Any other materials, supplies, equipment, labor, management, supervision, services, personnel, repairs, structural alterations, insurance, taxes, or assessments which the Association is required to secure or pay pursuant to the terms of this Declaration, or by law, or which shall be necessary or proper in the opinion of the Board for the operation of the Common Area, for the benefit of the Owners, or for the enforcement of these restrictions.

**Section 3. Maximum Annual Assessments.** The Board shall fix the assessments, which shall be in amounts determined in accordance with the projected financial needs of the Association as to which the decision of the Board shall be dispositive.

**Section 4. Uniform Rate of Assessment.** All regular and special assessments shall be at a uniform rate for each Lot in the Subdivision whereby each Single Family Home shall pay five percent (5%) of such assessments and each Owner of a Townhome shall pay two and one-half percent (2 ½ %) of such assessments. All assessments shall be paid without adjustment for size of Lots, whether Lot is for Single Family Home or Townhome, number of residents or use or nonuse of the Common Area.

**Section 5. Special Assessments for Capital Improvements and Major Repairs.** In addition to the annual assessment, the Association may levy in any assessment year a special assessment applicable to that year only, for the purpose of defraying in whole or in part the cost of

any construction, re-construction, unexpected repair or replacement of a capital improvement as approved by the Board, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the approval of two-third ( $\frac{2}{3}$ ) of the Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance, and shall set forth the purpose of the meeting.

**Section 6. Date of Commencement of Annual Assessments: Due Date.** The assessments for which provision is herein made shall commence on the first day of the month, or as fixed by the Board to be the date of commencement. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The due date of any assessment shall be fixed in the resolution authorizing such assessment and any such assessment shall be payable in advance in monthly installments unless such other periods are determined by the Board.

**Section 7. Duties of the Board of Directors.** The Board shall fix the date of commencement, and the amount of the assessment against each Lot for each assessment, at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by the Owners. Written notice of the assessment shall be sent to every Owner subject thereto not later than seven (7) days after fixing the date of commencement thereof. The Association shall, on demand, and for a reasonable charge, furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

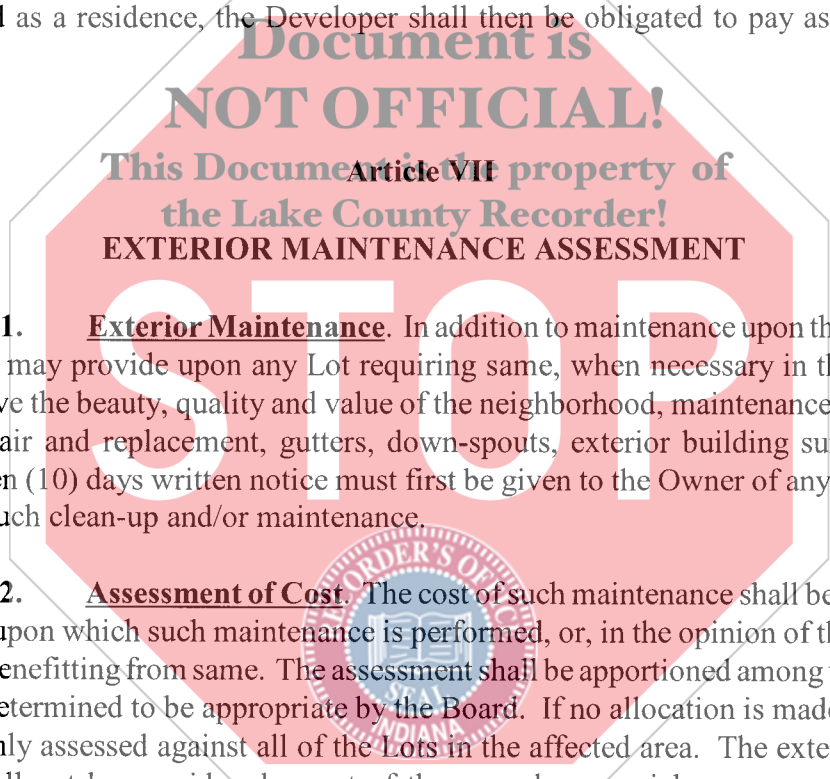
**Section 8. Effect of Non-Payment of Assessment: The Lien, Personal Obligation, Remedies of Association.** If any assessment is not paid on the date when due, such assessment shall then become delinquent and shall, together with interest thereon, and the cost of collection thereof, become a continuing lien on the Lot or Lots against which such assessment is made that shall bind such Lot in the hands of the Owner, and the Owner's heirs, devisees, personal representatives and assigns, and shall also be continuing personal obligation of the Owner against whom the assessment is levied.

If the assessment is not paid within thirty (30) days after the delinquency date the assessment shall bear interest from the date of delinquency at the rate of ten (10%) percent per annum, and the Association may, at any time thereafter, bring an action to foreclose the lien against the Lot or Lots in like manner as a foreclosure of a mortgage on real property and/or a suit on the personal obligation against the Owner, and there shall be added to the amount of such assessment the cost of any such action (including a reasonable attorneys' fee), and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the Court, together with the costs of the action.



**Section 9. Subordination to Lien of Mortgages.** The lien of the assessment for which provision is herein made shall be subordinate to the lien of any first mortgage to a bank, life insurance company, Federal or State savings and loan association, or real estate investment trust provided such mortgage is a purchase money mortgage. Such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure, and in any other proceeding in lieu of foreclosure of such mortgage. No such sale or transfer or proceeding in lieu of foreclosure shall relieve any Lot or Lots from liability for any assessments thereafter becoming due, nor from the lien of any subsequent assessment. The written opinion of either the Developer or the Association that the lien is subordinate to a mortgage shall be dispositive of any question of subordination.

**Section 10. Developer Exemption for Assessments.** Developer may, but shall not be obligated to, reduce any assessment for any fiscal year by payment of a subsidy, which may be either a contribution or a loan in Developer's discretion. Any such subsidy shall be disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Developer to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Developer. Developer shall not be responsible or liable for any assessments on Lots owned by Developer and held as inventory prior to sale to another Owner. In the event that the Developer owns any Lot that is improved with a residential dwelling that is occupied as a residence, the Developer shall then be obligated to pay assessments levied against the Lot.



**Section 1. Exterior Maintenance.** In addition to maintenance upon the Common Area, the Association may provide upon any Lot requiring same, when necessary in the opinion of the Board to preserve the beauty, quality and value of the neighborhood, maintenance, including paint, repair, roof repair and replacement, gutters, down-spouts, exterior building surfaces, provided, however, that ten (10) days written notice must first be given to the Owner of any such Lot or Lots of the need of such clean-up and/or maintenance.

**Section 2. Assessment of Cost.** The cost of such maintenance shall be assessed against the Lot or Lots upon which such maintenance is performed, or, in the opinion of the Board, against the Lot or Lots benefitting from same. The assessment shall be apportioned among the Lots involved in the manner determined to be appropriate by the Board. If no allocation is made, the assessment shall be uniformly assessed against all of the Lots in the affected area. The exterior maintenance assessments shall not be considered a part of the annual or special assessments. Any exterior maintenance assessment shall be a lien on the Lot or Lots and the personal obligation of the Owner and shall become due and payable in all respects, together with interest, reasonable attorney's fees,

and cost of collection, as provided for the other assessments of the Association and shall be subordinate to mortgage liens as provided for herein.

**Section 3. Access at Reasonable Hours.** For the purpose of performing the maintenance authorized by this Article, the Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot or Lots or the exterior of any improvements thereon at reasonable hours any day except Sunday.

## Article VIII

### ARCHITECTURAL CONTROL COMMITTEE

**Section 1. Power of Committee.** There is hereby created an Architectural Control Committee for the purpose of architectural and engineering control to secure and maintain an attractive, harmonious residential community. The Developer shall function as and grant all approvals and variances provided for herein until Developer conveys the last Lot which Developer owns in the Subdivision, except that Developer may elect to delegate and assign such duties and responsibilities to the Committee prior to that time. The Committee shall be composed of no less than three (3) individuals appointed by the Board to serve at the Board's pleasure. Two-thirds (2/3rds) of the Committee must also be Members of the Association. A majority of members of the Committee shall constitute the decision of the Committee.

- A. **In General.** No Townhome, Single Family Home, building, structure or improvement of any type or kind shall be constructed or placed on any Lot in the Subdivision without the prior approval which shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. In addition, such plans and specifications shall show the proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of  $\frac{1}{4}'' - 1'$ , or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or reports required elsewhere in these Restrictions.
- B. **Power of Disapproval.** The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

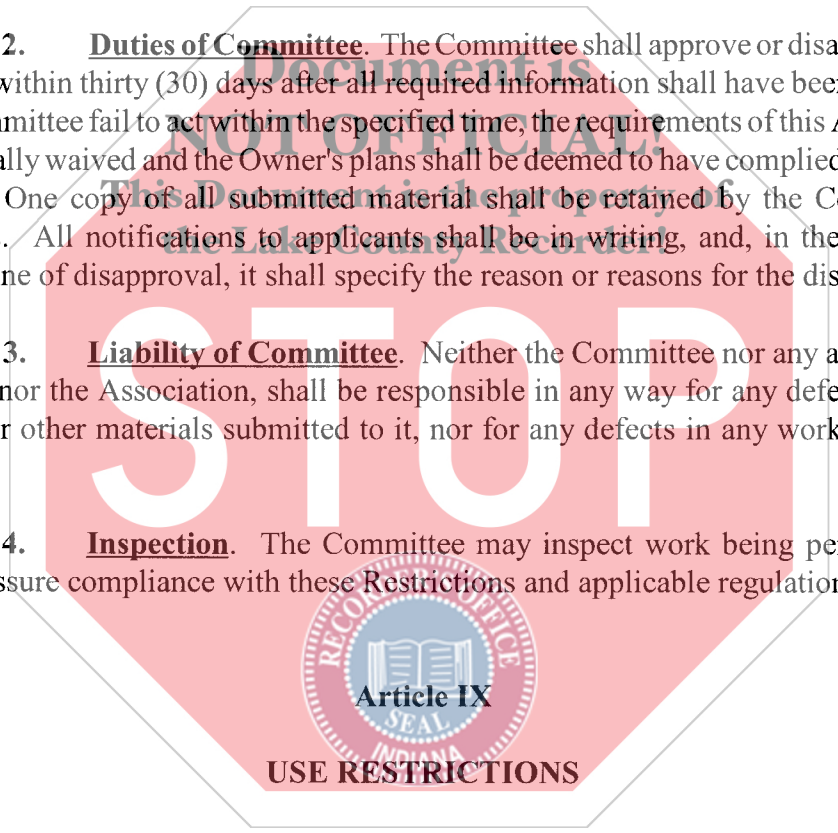
- (i) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these restrictions;
- (ii) The design, color scheme or construction materials of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures; or
- (iii) The proposed improvement, or any part thereof, would in the opinion of the Committee be contrary to the interests, welfare or rights of all or any part of the other Owners.

C. **Power to Grant Variances.** The Committee may allow reasonable variances or adjustments of these Restrictions where literal application would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of these Restrictions, and no variance or adjustment shall be granted which is materially detrimental or injurious to other Lots in the Subdivision.

**Section 2. Duties of Committee.** The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. Should the Committee fail to act within the specified time, the requirements of this Article shall have been automatically waived and the Owner's plans shall be deemed to have complied with all requirements hereof. One copy of all submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for the disapproval.

**Section 3. Liability of Committee.** Neither the Committee nor any agent thereof, nor the Developer, nor the Association, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

**Section 4. Inspection.** The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.



**Section 1. Residential Use.** The real estate subject to these covenants and restrictions may be used for single family residential living units and Townhomes for no other purpose. There shall be no more one (1) principal dwelling on any one (1) Lot, except that multiple Townhomes

shall be located on Lots 1, 2, 9, 10, 11, 12, 19 and 20. No business or commercial building may be erected on any Lot. No business may be conducted on any part thereof without the express written consent of the Developer or Association pursuant to the terms of this Declaration. An Owner may conduct his or her occupation in the residence provided that the following conditions are met (i) no commercial activities shall be permitted; (ii) only office use shall be allowed; (iii) only the owner of the residence and any resident thereof shall be permitted to conduct the home occupation; (iv) no clients shall be permitted to come to the residence; (v) no signs shall be permitted; (vi) all ordinances and regulations of the appropriate governmental authority shall be complied with. No building or other improvements shall be erected upon any Lot without prior approval of the Committee as elsewhere herein provided. No accessory building shall be erected prior to erection of the principal Dwelling Unit.

(a) Subdivision of a Lot. No Lot shall be divided, subdivided or reduced in size unless each divided or subdivided portion thereof is consolidated with one or more contiguous Lots under one ownership and the Owner obtains written approval from the Board. In the event of the division or subdivision of any Lot as aforesaid, which results in the division of more than ten (10%) percent of any one Lot, the obligation for Association expenses attributable to the divided or subdivided Lot shall be and become proportionately attributable and chargeable to the contiguous Lot or Lots, and the Owner or Owners thereof, to and with which all or portions of the divided or subdivided Lot or Lots become consolidated.

(b) Consolidation of Two or More Lots. In the event that one or more Lots are developed as a unit, the provisions of these covenants and restrictions with the exception of assessments shall apply thereto as a single Lot. No dwelling or other structure or improvement shall be erected, altered, placed or permitted to remain on any site not including at least one (1) full platted Lot according to the recorded plat or plats of the Subdivision.

**Section 2. Boats and Motor Vehicles.** No boats, recreational vehicles or other motor vehicles, except four-wheel passenger automobiles, which are greater than twenty feet (20') in length shall be placed, parked or stored upon any Lot or in the Common Area, 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 3. Trees.** No tree or shrub, the trunk of which exceeds two (2) inches in diameter, shall be cut down or otherwise destroyed without the prior express written consent of the Committee.

**Section 4. 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 Committee.

**Section 5. Signs.** No sign of any kind shall be displayed to public view on any Lot or any Common Area, except for the following:

- (a) The Developer, or the sales agent for the Developer, may place one professional sign on any Lot or Lots advertising the Lot or Lots for sale.
- (b) Owners may display or place "for rent" or "for sale" signs, not to exceed four (4) square feet.

The size and design of all signs shall be subject to approval by the Committee.

**Section 6. Common Area.** Nothing shall be altered in, constructed on or removed from, any of the Common Area except upon the written consent of the Association.

**Section 7. Residential Setback Requirements.** No Dwelling Unit or other above-grade structure designed to be used in connection with such Dwelling Unit shall be constructed or placed on any Lot in the Subdivision except as provided herein. Setbacks established for Single Family Homes may be different than setbacks established for Townhomes.

- (a) **Front Setbacks.** All Dwellings Units 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 front yard setback lines as established by local zoning codes and ordinances.
- (b) **Side Yards.** The side yard setback lines for each Lot shall be established by local zoning codes and ordinances.
- (c) **Rear Yards.** The rear yard setback line for each Lot shall be established by local zoning codes and ordinances.

**Section 8. Yard Lights.** No Owner of a Lot in the Subdivision may install a free standing yard light on his or her Lot. Each Owner of a Lot may install outside lighting that is attached to the Dwelling Unit that has been approved by the Committee.

**Section 9. Owner's Obligation to Maintain Lot.** Except as otherwise provided herein, the Owner of a Lot 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 Lot Owner shall 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 keep the exterior of the improvements in such a state of repair or maintenance as to avoid the improvements from becoming unsightly.

**Section 10. Heating Plants.** Every Dwelling Unit in the Subdivision must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation.

**Section 11. Time in Which to Build Structures** . An Owner of a Lot within the Subdivision must commence construction of the Dwelling Unit within two (2) calendar years after the Owner's purchase of the Lot or the Developer's sale of said Lot if the Owner did not purchase the Lot from the Developer directly. If construction does not begin or if a Dwelling Unit is not completed upon a Lot within the prescribed time, the Developer shall have the option to repurchase such Lot for a price, in cash, equal to the Owners' cost basis in the Lot, without paying the cost of improvements up to the time of repurchase. This option shall expire if Developer has not notified the Owner of Developer's intent to exercise the option prior to the time of commencement of the construction.

**Section 12. 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 13. Necessary Exceptions for Development**. 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.

**Section 14. Animals**. Except for tropical fish and a parakeet-size bird, two domestic house pets, *i.e.*, a dog or cat shall be permitted to be kept in a Dwelling Unit. Dogs shall not be left unattended by an Owner outside of a Dwelling Unit. Animals shall not be kept, bred or maintained for any commercial purposes, and animals causing or creating a nuisance or unreasonable disturbance shall be permanently removed from a Dwelling Unit upon seven (7) days' written notice from the Board.

**Section 15. Nuisance**. No activity which emits foul or obnoxious odors outside the Lot or creates noise or other conditions which tend to disturb the peace or threaten the safety of the occupants of other Lots. Any noxious or offensive activity which in the reasonable determination of the Board tends to cause embarrassment, discomfort, annoyance, or nuisance to persons using the Common Area or to the occupants of other Lots. No outside toilets shall be permitted on any

Lot in the Subdivision (except during construction as provided herein), and no sanitary waste or other wastes shall be permitted to enter the storm drainage system. No discharge from any floor drain shall be permitted to enter into the storm drainage system, nor shall any sump pump extend or discharge to a point within 10 feet from any property line. By purchase of a Lot, each Owner agrees that any violation, of this paragraph constitutes a nuisance which may be abated by Developer, the Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees shall become a charge of lien upon the Offending Owner's Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. Neither the Developer, nor any officer, agent, employee or contractor thereof, the Association, or any Owner enforcing the provisions of this paragraph shall be liable for any damage which may result from enforcement hereof.

**Section 16. Compliance with Laws.** No activity which violates local, state, or federal laws or regulations; however, the Board shall have no obligation to take enforcement action in the event of a violation.

**Section 17. Hobbies.** No pursuit of hobbies or other activities which tend to cause an unclean, unhealthy, or untidy condition to exist outside of enclosed structures on the Lot.

**Section 18. Burning.** No outside burning of trash, leaves, debris, or other materials.

**Section 19. Noise Pollution.** No use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Lots, except alarm devices used exclusively for security purposes.

**Section 20. Fireworks.** No use and discharge of firecrackers and other fireworks.

**Section 21. Dumping and Disposal of Refuse.** No dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within East Edge, and Developer and Builders may dump and bury rocks and debris removed from a building site on such building site.

**Section 22. Rubbish, Trash and Garbage.** No rubbish, trash, garbage or other waste materials shall be kept or permitted on any Lot or on the Common Area, except in approved sanitary containers located in appropriate areas concealed from public view. The Association may designate a trash collection day and a trash collection service to be used and paid for by Owners in the Development in furtherance of this paragraph. Additionally, the Association may enter into a master contract for trash collection with a refuse disposal service with the costs thereof to be included as a Common Expense of the Association to be paid by Owners as part of their normal assessments. Additionally, the Association may designate standard trash container as acceptable by the private disposal company, all at the expense of each Lot Owner.

**Section 23. Drainage.** Obstruction or re-channeling drainage flows after location and installation of drainage swales, storm sewers, or storm drains, except that Developer and the Association shall have such right; provided, the exercise of such right shall not materially diminish the value of or unreasonably interfere with the use of any Lot without the Owner's consent. It shall be the duty of every Owner of every Lot to keep any ditches, swales, waterways, or storm drainage portion areas as may be situated upon his Lot continuously unobstructed and in good repair and to repair all erosion with respect to such areas situated on such Owner's Lot even if said ditch or swale or waterway is not specifically referenced by an easement on the plat or elsewhere. In the event any ditch, swale, waterway or storm drainage area is altered, destroyed, changed, the Owner shall promptly repair same to its original condition. If the Owner does not remedy the problem within a reasonable amount of time as determined by the Board, the Board may correct the problem and impose a specific assessment and a lien against the Lot as contemplated by this Declaration.

**Section 24. Firearms.** No discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge.

**Section 25. Hazardous Material and Fuels.** No on-site storage of hazardous material, gasoline, heating, or other fuels, except that a reasonable amount of fuel may be stored on each Lot for emergency purposes and operation of lawn mowers and similar tools or equipment, and the Association shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. No above ground storage tanks shall be permitted for the storage of gasoline, propane, kerosene, or other liquid fuels.

**Section 26. Business Use of Lot.** Garage sales, moving sales, auctions, rummage sales, or similar activity is prohibited without prior approval of the Association. An Owner or occupant residing in a Lot may conduct other business activities within the Lot with the express written consent of the Developer, Association or the Board, 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 Lot; (ii) the business activity conforms to all zoning requirements for East Edge; (iii) the business activity does not involve door-to-door solicitation of residents of East Edge; (iv) the business activity does not, in the Developer's, Association's, or Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles being parked in East Edge which is noticeably greater than that which is typical of Lots in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of East Edge and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of East Edge, as may be determined in the Developer's, Association's, or Board's sole discretion.

This subsection shall not apply to any activity conducted by Developer or a Builder approved by Developer with respect to its development and sale of East Edge or its use of any Lots which it owns within East Edge.



**Section 27. Wildlife.** No capturing, trapping, or killing of wildlife within East Edge, except in circumstances posing an imminent threat to the safety of persons using East Edge.

**Section 28. Environment.** No activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within East Edge or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution.

**Section 29. Well and Septic.** No septic system shall be constructed or utilized on any Lot. No well shall be drilled on any Lot.

**Section 30. Recreational Vehicles.** No minibikes, go-carts, snowmobiles or similar motor-driven vehicles shall be operated within the Subdivision.

**Section 31. Use of Yard.** No permanent clotheslines, playground equipment, outside storage, flag poles, tennis courts, gazebos, or other similar uses of yards which may prove detrimental to the value of the adjoining Lots shall be permitted, except as approved by the Committee. Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Lot, whether such portion is improved or unimproved, except in strict compliance with the provisions of this Declaration.

**Section 32. 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 subject to the approval of the Committee in accordance with generally acceptable Committee standards. Any permitted satellite dish must be properly screened from the view of surrounding Lots and screening of the satellite dish must be approved by the Committee.

**Section 33. Leasing.** The leasing of any Dwelling Unit is permitted; provided that all leases are made expressly subject to the terms of this Declaration and that the Association may adopt reasonable rules and regulations relating to an Owner's right to lease a Dwelling Unit, including the limitation on the term of any lease. "Leasing," for purposes of this Section, is defined as regular, exclusive occupancy of a Dwelling Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. The Board shall receive copies of all leases. Leased premises shall be kept in the same manner as those occupied by an Owner. Tenants shall be governed by this Declaration and any infractions or violation of one or more terms of this Declaration or the rules and regulations adopted by the Association shall permit the Association to enforce this Declaration against the Owner and seek the immediate ejectment of the offending tenant from the Dwelling Unit.

**Section 34. Additional Restrictions.** In addition to any other rules or restrictions contemplated by this Declaration, the Developer so long as it owns a Lot, the Association, and the Board may establish reasonable rules and regulations concerning the use of the Common Area, facilities located thereon, and individual Lots. Copies of such regulations and amendments thereto shall be furnished by the Association to all Owners prior to the rule's effective date. Such regulations

shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule, or requirement shall be specifically overruled, canceled, or modified by the Board or the Association in a regular or special meeting by the vote of Owners holding a two-thirds ( $\frac{2}{3}$ ) majority of the total votes in the Subdivision present or by proxy or with the written approval of the Developer for so long as Developer owns a Lot in the subdivision. The Board shall have the authority to impose reasonable monetary fines and other sanctions, and monetary fines may be collected by lien and foreclosure.

**Section 35. Model Dwellings Units.** 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 Unit that is to be used as a model or exhibit.

**Section 36. Soliciting.** No Common Area may be used for partisan political purposes, or for the proselytizing of sectarian religious or philosophical causes. Provided, however, that persons engaged in civic and nonpartisan political activities such as registration of voters may be invited upon said Common Areas by the Association upon application for a permit for such purposes by a member of the Association. Subject to Constitutional Protection, if available, no person may enter upon any Common Area for purposes of solicitation, commercial, political or religious activity, except upon the express authorization or invitation of the Association, upon application for a permit for such purposes by a member of the Association provided however, that this rule shall not prohibit the use of said Common Areas by the Developer for purposes of advertising, solicitations and sale of any of the properties within Subdivision, so long as the Developer owns any properties therein.

**Section 37. Fencing and Hedges.** Fencing is expressly prohibited without prior written consent of the Board.

**Section 38. Swimming Pools.** No above or below ground swimming pools shall be installed on any Lot without a prior written consent of the Board.

**Section 39. Temporary Structures.** No tents, trailers, vans, shacks, tanks or temporary or accessory buildings or structures shall be erected or permitted to remain on any Lot or in the Common Area without the written consent of the Developer, or of the Association after Developer has conveyed the last Lot which Developer owns in the Subdivision, except for occasional Lot Owner's children camp-out activities and further excepting any party/reception tent, which tent shall not be erected for a period to exceed seventy-two (72) hours and which tent shall not be placed or erected on the front lawn of any Lot.

**Section 40. Prohibition of Used Structures and Modular Homes.** All structures constructed or placed on any numbered Lot in the Subdivision shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot nor shall modular constructed structures be placed on any Lot.

**Section 41. Occupancy or Residential Use of Partially Completed Dwelling Unit Prohibited.** No Dwelling Unit Constructed on any of the Lots shall be occupied or used for

residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the building plan therefor approved by the Committee and a Certificate of Occupancy from the City of Gary has been issued. The determination of whether the Dwelling Unit shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.

**Section 42. Mailboxes and Address Identification.** The Committee shall select and designate a standard mailbox, post, and individual address identification devices for the Subdivision. No exterior newspaper receptacles shall be permitted in the Subdivision. All repairs and replacements to such standard mailboxes, posts, and identification devices shall be consistent in color, quality and appearance with the original mailbox, post, and identification devices unless the advance written approval of the Committee is obtained. The Developer shall determine the address identification to be used throughout the Subdivision for each Lot and the ultimate location for address identifier.

## Article X

### PARTY WALL COVENANTS AND RESTRICTIONS AND ISSUES SPECIFIC TO TOWNHOMES

**Section 1. Party Walls.** Each wall which is built as a part of the original construction of two attached Townhomes shall constitute a party wall and to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage through the negligence or willful acts or omissions shall apply. No Owner shall cut through or make any penetration through a party wall for any purpose, or interfere with the equal use by the abutting Owner.

- A. The party wall dividing any two Townhomes shall be and remain a party wall so long as said party wall is used and useful to said premises.
- B. If it should become reasonably necessary or advisable to maintain, repair or rebuild the whole, or any portion of said party wall, the same shall be done, as near as is practicably possible so that same is of like materials, size, construction and quality as the present party wall, and the expense of such repairing or rebuilding shall be borne equally by the Owner or Owners of the respective Townhome, their heirs, grantees or assigns.
- C. In case of damage to, or destruction of, said party wall, including the foundations thereof, the Owner of either Townhome on which the party wall was constructed, or his heirs, grantees or assigns, shall have the right to go upon any portion of the Lot to repair or rebuild the said party wall, and each Owner of a Townhome shall promptly contribute and pay their respective one-half (1/2) of the reasonable costs of such repairing or rebuilding.

- D. In case it becomes reasonably necessary to replace, rebuild or repair any portion of the roof supported by the party wall herein described, the respective Owners of the Townhome, their heirs, grantees or assigns, shall agree upon the color, type and quality of such roof, and shall share equally the cost of the same. No change shall be made in the roof design or pitch without the written consent of the then Owners of each said adjoining Townhome and the Architectural Control Committee.
- E. Whenever in this Declaration anything is required to be done by agreement of the parties, their heirs, grantees or assigns, and such persons are unable to agree thereon due to the incapacity or incompetence of any person required to give consent, or due to the willful and/or unreasonable refusal of any person to agree thereto, the other person or persons shall have the right to petition any court of competent jurisdiction for any relief which the court may determine is necessary in the premises to effectuate and enforce the intent and purpose of this Declaration to resolve the controversy.

**Section 2. Destruction by Fire or Other Casualty.** If a party wall is destroyed or damaged by fire or other casualty, any Owner who shares the wall may restore it and the other Owner of the adjoining Townhome shall contribute to the cost or restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to demand a larger contribution from the other Owner under any rule law regarding liability for damages caused by negligent or willful acts or omissions.

**Section 3. Architectural Control.** The provisions of this Section are in addition to either obligations and restrictions set forth in this Declaration.

- A. **Approval**. No exterior addition, change or alteration of a Townhome shall be made by any Owner until the plans and specifications showing the nature, kind, shape, height, color, materials and location shall have been submitted to and approved in writing by the adjoining Owner as to the harmony of external design and location in relation to the adjoining structure and topography, which approval shall not be unreasonably withheld.
- B. **Decorating Scheme**. Each Townhome shall have a uniform and coordinated exterior decorating scheme, and each Lot shall have a coordinated and sightly landscaping scheme. Awnings, canopies, exterior shutters and other similar decor may not be added without the written approval of the Committee.
- C. **Responsibility of Owners**. The Owners of a Townhome shall have the responsibility to repair, replace and maintain the exterior and interior of their Townhome in a clean, sightly and attractive manner.

**Section 4. Insurance.**

**A. Townhomes.**

- (i) Each Owner shall be required to obtain and maintain adequate insurance on his or her Townhome, which shall insure the Townhome for its full replacement value, with no deductions for depreciation, against loss by fire or other hazards. Such insurance shall be sufficient to cover the full replacement value or for necessary repair or reconstruction work.
- (ii) To the extent obtainable, each Owner shall be required to obtain and maintain general liability insurance against liability for any negligent act of commission or omission occurring within a Townhome or upon a Lot.
- (iii) Upon request, each Owner shall be required to supply the other Owner with evidence of insurance coverage on his Townhome which complies with the provisions of this section.

**Section 5. Repair or Replacement of Damaged or Destroyed Property** Each Owner shall be required to reconstruct or repair any Townhome destroyed by fire or other casualty. In the event of damage or destruction by fire or other casualty to any Townhome covered by insurance, then such Owner shall, with the concurrence of the Owner's mortgagee, if any, within thirty (30) days of the receipt of the insurance proceeds, contract for or otherwise substantially start the repair or rebuilding of the damaged or destroyed portions of the Townhome in a good and workmanlike manner, in conformance with the original plans and specifications. If such Owner refuses or fails for any reason to so repair or rebuild as provided, then the other Owner is hereby irrevocably authorized by such Owner to repair and rebuild such damaged or destroyed portions of the Townhome in a good and workmanlike manner in conformance with the original plans and specifications thereof. In such event, the other Owner shall have a lien against such defaulting Owner's Townhome and land in whatever amount sufficient to adequately pay for such repair or rebuilding.

**Section 6. Routine Maintenance.**

- A. Townhome Roofing.** Each Owner of a Townhome shall be responsible for maintenance, repair, and the replacement of the roof covering each Owner's individual Townhome, at each Owner's sole cost. Each Owner is required to monitor the condition of his Townhome's roof, so as to prevent leaks and immediately rectify all leaks discovered as soon thereafter as practical, so as to prevent water damage from occurring to each Townhome and its neighboring Townhome.

To the extent that the roof of a Townhome requires maintenance, repair or replacement, and such action requires an Owner or agent thereof to go onto an adjacent Townhome, an easement is granted to the Owner making or directing repairs, and to his or her assigns and successors, to enter upon the roof of the neighboring Townhome for the sole purpose of allowing the maintenance, repairs, and replacement to be made on the roof requiring the same. The Owner using the easement for said maintenance, repairs, and replacement shall provide the neighboring Townhome Owner, upon whose roof the easement will be used, five (5) days written notice, unless and emergency exists. The easement to go upon the neighboring Townhome Owner's roof shall be limited to as little time as necessary to properly perform the work.

- B. **Townhome Exterior.** It is imperative that all Townhomes within each building, regardless of where situated, maintain an identical quality and appearance. Therefore, all Townhome exteriors within the Subdivision must be maintained, painted, and improved in unison, on a regular basis, in accordance with schedules adopted by the Board. The Board shall be responsible to establish guidelines regarding the exteriors of the Townhomes, including, but not limited to, the Townhomes' architectural design, window and door design, construction materials used, color, type of paint used, and overall appearance.
- C. **Cost of Townhome Repairs.** Each Townhome Owner shall be responsible to pay for maintaining, repairing, and replacing the roof to his or her Townhome and to maintain, repair, and replace Townhome windows and doors. If a Townhome Owner is repairing a door, window or other part of a Townhome that will be a part of the Townhome's exterior and will be seen by the general public from the outside of the Townhome, then the Owner must make every effort to find a replacement and repair the fixture in such a way that it will identically match those fixtures currently being used by the Townhomes. If an exact match can not be made, the Owner must obtain prior written approval from the Board to install a substitute fixture that does not have the exact appearance as what is currently being used. Owners shall be responsible for making and paying for repairs to all exterior doors and windows, including but not limited to, garage doors.

Article XI

TRANSFER OF UNIMPROVED LOTS

**Section 1. Developer's Right of First Refusal.** So long as Developer owns at least one Lot in the Subdivision, no Lot and no interest therein, upon which a Dwelling Unit has not been constructed shall be sold or transferred unless and until the Owner of such Lot shall have first offered to sell such Lot or Lots to Developer and Developer has waived, in writing, the right to purchase said Lot.

**Section 2. Notice to a Developer.** Any Owner or Owners intending to make a bona fide sale of a Lot or any interest therein shall give to Developer notice of such intention, together with a fully executed copy of the proposed contract of sale (the "Proposed Contract"). Within thirty (30) days of receipt of such notice and information, Developer shall either exercise, or waive exercise of, the right of first refusal. If Developer elects to exercise the right of first refusal, Developer shall, within thirty (30) days after receipt of such notice and information, deliver to the Owner an agreement to purchase the Lot upon the following terms:

- A. The price to be paid, and the terms of payment shall be that stated in the Proposed Contract or other terms agreed to by the Owner;
- B. The sale shall be closed within thirty (30) days after the delivery or making of the Developer's agreement to purchase.

**Section 3. Certificate of Waiver.** If Developer shall elect to waive the right of first refusal, or shall fail to exercise said right within thirty (30) days of receipt of the Proposed Contract, Developer's waiver shall be evidenced by a certificate executed by Developer in recordable form which shall be delivered to the Owner or the Proposed Contract purchaser.

**Section 4. Unauthorized Transactions.** Any sale of a Lot, or any interest therein, upon which a Dwelling Unit has not been constructed, without notice to Developer and waiver of Developer's right of first refusal as aforesaid, shall be void.

**Section 5. Exceptions.** This Article shall not apply to a transfer to or sale by any bank, life insurance company, Federal or State savings and loan association, or real estate investment trust which acquires its title as a result of owning a purchase money mortgage upon the Lot concerned, and this shall be so whether the title is acquired by deed from the mortgagor or its successors in title or through foreclosure proceedings; nor shall this Article apply to a sale by any such institution which so acquires title. Neither shall this Article require the waiver by Developer as to any transfer of title to a Lot at a duly advertised public sale with open bidding which is provided by law, such as but not limited to execution sale, foreclosure sale, judicial sale or tax sale.

## Article XII

### 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, the Association 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, Association, 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 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 and/or the Association 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 3. Notices.** Any notices required to be sent to any Member or 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 Member or Owner on the records of the Association at the time of such mailing.

**Section 4. 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 5. 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 Owners holding not less than two-thirds (2/3) of the voting interests of the membership, 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.

**Section 6. Usage.** Whenever used the singular shall include the plural and singular, and the use of any gender shall include all genders.

**Section 7. Effective Date.** This Declaration 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 of East Edge to be executed on the date first written above.

East Edge, LLC

By: Ajay Gallagher  
Its: MANAGING MEMBER



STATE OF INDIANA        )  
  ) SS:  
COUNTY OF                )

Before me, the undersigned, a Notary Public for Lake County, State of Indiana, personally appeared Jay Gallagher of East Edge, LLC, and acknowledged the execution of the foregoing instrument to be their free and voluntary act. Signed and sealed this 25 day of April, 2008.

My Commission Expires:  
9-14-14

Jerry Ann Dignall  
Notary Public  
County of Residence: Lake

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

**Document is NOT OFFICIAL!**  
**This Document is the property of the Lake County Recorder!**

Jay Gallagher

This Instrument Prepared By:  
Todd A. Leeth  
Hoepner Wagner & Evans, LLP  
103 E. Lincolnway  
Post Office Box 2357  
Valparaiso, Indiana 46384  
(219) 464-4961

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