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STATE OF INDIANA  
LAKE COUNTY  
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MICHAEL B BROWN  
RECORDER

DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
GRAYTHORNE SUBDIVISION

THIS DECLARATION OF COVENANTS AND RESTRICTIONS FOR GRAYTHORNE SUBDIVISION ( "Declaration"), made this 7 day of December 2020 by Graythorne Development, LLC, an Indiana Limited Liability Company (the "Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the Real Estate legally described herein and commonly known as Graythorne, a Subdivision North of Lowell, Indiana in Unincorporated Lake County, Indiana (hereinafter "Graythorne"); and

WHEREAS, Declarant desires to develop Graythorne under a general plan and scheme of development and improvement; and

WHEREAS, Declarant desires to promote the orderly development of the Subdivision subjecting the Real Estate owned by the Declarant 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 described herein and Real Estate comprising the development;

NOW THEREFORE, the Declarant hereby declares that the Real Estate located within the Subdivision, described in "Exhibit A" as platted or to be platted, are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, shall be 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. All of these Covenants and Restrictions shall run with the land and shall be binding upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Real Estate or any part or parts thereof, subject to such Covenants and Restrictions.

Article I

Definitions

When used in this Declaration, the following words and terms shall have the following meanings:

"Assessments" shall mean Assessments for Common Expenses provided for herein or by any Supplemental Amendment or by any other amendment hereof which shall be used for the purposes of promoting the health, safety, welfare, common benefit and enjoyment of the Owners and Occupants of the Lots within Graythorne against which the Assessments are levied, all as may be specifically authorized from time to time by the Board of Directors of Graythorne Property Owners Association, Inc. and as more particularly authorized below. The Assessments shall be levied equally against the Owners of the Lots unless otherwise specifically set forth herein.

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JOHN E. PETALAS  
LAKE COUNTY AUDITOR

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**"Association"** shall mean the Graythorne Property Owners Association, Inc, (hereinafter the Association) an Indiana not-for-profit corporation, and its successors and assigns whose membership, responsibilities, duties, and powers are described in this Declaration. The Association shall be organized and governed in accordance with its Articles of Incorporation and By-Laws. Additionally, the Board of Directors of the Association may adopt Rules and Regulations for the Association and the Subdivision.

**"Architectural Review Committee"** or **"Committee"** or **"ARC"** shall mean the Graythorne Architectural Review Committee which shall initially be Declarant Graythorne Development, LLC until such time as the Declarant no longer hold legal title to any of the Real Estate described in "Exhibit A" herein, or until the Declarant chooses to relinquish such power and authority, whereupon the Graythorne Architectural Review Committee shall consist of a committee of at least five (5) Members of the Association appointed by the Board in accordance with the rules and procedures set forth in this Declaration.

**"Board"** shall mean the duly appointed and/or elected Board of the Directors of Graythorne Property Owners Association, Inc. having its customary meaning under Indiana law.

**"Building"** shall mean any man-made structure having a roof, supported by columns or walls, for the shelter, support, or enclosure of persons, property, or animals, including but not limited to each home, out-building, tool or storage shed, swimming pool house, or any other above-ground temporary or permanent improvement within Graythorne.

**"Common Areas"** shall mean the Real Estate owned and maintained by the Association. The Common Area(s) shall include (but is not limited to) roads and streets within Graythorne, entrance signs and adjacent landscaping, out lots containing detention ponds and their fixtures and outlets, community mailboxes, out lots, all portions of the on-site storm-water drainage system located outside the dedicated public right-of-way, and, if constructed, sanitary treatment system located outside the dedicated public right-of-way.

**"Common Expenses"** shall mean and include the actual and estimated expenses of operating the Association, including any reasonable reserve, all as may be found to be appropriate by the Board pursuant to this Declaration, the By-Laws, and the Articles of Incorporation of the Association.

**"Declarant"** or **"Developer"** shall mean Graythorne Development, LLC, an Indiana Limited Liability Company, its successors and assigns, if any such successor or assignee acquires the undeveloped portion of the Subdivision from the Declarant for the purpose of development.

**"Graythorne"** or **"Subdivision"** or **"Development"** shall mean and refer to the Subdivision commonly known as Graythorne, described in "Exhibit A", as has been or shall be created by the recording of the Subdivision Plat.

**"Home"** shall mean a detached single-family residential dwelling, the living area of which shall be defined as the square footage of the exterior perimeter walls of the dwelling, excluding the square footage of a garage.

**"Lot"** shall mean a parcel of real estate in Graythorne designated on a final Plat upon which a home can be built. If two or more contiguous lots are owned by the same person(s) or entity, they shall be treated as a single lot. If a home is constructed in such a manner as to overlap more than one lot, then the two lots shall be treated collectively as one lot for the purposes of this Declaration and the Owner shall be entitled to only one vote per any Association referendum, petition, or Assessment, or per the exercise of any Association power, duty, responsibility, or procedure.

**"Member"** shall mean every Person who holds membership in the Association in accordance with the provisions of this Declaration.

**"Mortgage"** shall include a deed of trust, as well as a mortgage.

**"Owner"** shall mean a person, partnership, trust, or corporation who has acquired a right, title, or interest - legal or equitable - in and to a lot or fractional interest therein.

**"Improvement"** shall mean anything exclusive of a building placed, erected, or constructed on a lot, including (but not limited to) fences, swimming pools, pool houses, landscaping pools, decks, patios, porches, and landscaping fixtures.

“Structure” shall mean any building, pool, driveway, breeze way, accessory building or fixture that is permanent.

“Subdivision Documents” shall mean this Declaration of Covenants and Restrictions, the Articles of Incorporation of the Association, the By-Laws of the Association, and the Rules and Regulations of the Association.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION:

**Section 2.01. Legal Description.** The Real Estate which is and shall be held, transferred, sold, conveyed and occupied, which is 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 Real Estate legally described as the Submitted Parcel on “Exhibit A”.

**Section 2.02. Subdivision Restrictions.** Declarant shall be entitled at any time and from time to time, to plat, replat or vacate existing plats 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 2.03. Retractable Real Estate.** At the sole election of the Declarant, all of the Real Estate specifically described in 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 Declarant has withdrawn from this Declaration.

**Section 2.04. 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. The Declarant also reserves for itself and its designees (including, without limitation, Lake County and any utility) the non-exclusive right and power to grant, modify or expand such specific easements as may be necessary, in Declarant’s sole discretion, in connection with the orderly development of the Subdivision, and such easements may include easements upon, across, over and under the Lots for ingress, egress, installation, replacing, repairing and maintaining cable television systems, and similar systems, walkways, and all utilities, including, but not limited to, water, sewers, meter boxes, telephones, gas and electricity. This reserved right of easement may be assigned by the Declarant by written instrument to the Association, and the Association shall accept the assignment upon such terms and conditions as are acceptable to the Declarant. If this reserved easement is assigned to the Association, the Board shall, upon written request, grant such easements as may be reasonably necessary for the 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. 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 2.05. Additions.** The Declarant reserves the right to add “Additional Property” or “Annexed Property” to the provisions of this Declaration and any Property so added shall inure to the benefits and be subject to Restrictions of this Declaration the same as if originally included herein. The recording of this Declaration or a Declaration substantially similar to this Declaration shall be sufficient evidence of said Real Estate being added to this Declaration, excepting only any changes which may be made in the Declaration regarding said “Additional Property” or “Annexed Property”.

**Section 2.16. Power to Amend.** Subject to the provisions of this Declaration, amendments to the Declaration shall be proposed and adopted as follows, provided, however, that no amendment may revoke, remove, or modify any right or privilege of the Declarant, without the Declarant’s written consent.

- (a) *Notice.* Notice of the subject matter of any proposed amendment shall be included in the Notice of any meeting of the Board of Directors or Owners at which any proposed amendment is to be considered.
- (b) *Resolution.* Except as provided in subparagraph (d) hereof, a resolution to amend the Declaration may be adopted by the affirmative vote in person or by proxy of not less than three-fourths (3/4) of the votes of the Members (not three-fourths (3/4) of a quorum), at any regular or special meeting of the Members called and held in accordance with the By-Laws; provided, however, that any such amendment must also be approved and ratified by not less than three-fourths (3/4) of the Board of Directors (not three-fourths (3/4) of a quorum).
- (c) *Recording.* The amendment shall not be effective until a certified copy thereof is recorded in the Office of the Recorder of Lake County, Indiana. A copy of any such amendment shall also be sent to each Owner and his Mortgagee by registered or certified mail; provided, however, the mailing of such amendment shall not constitute a condition precedent to the effectiveness of such amendment.
- (d) *Amendments by Declarant.* Notwithstanding any other provision of the Declaration, and in addition to any other right to amend elsewhere set forth herein, the Declarant alone may amend this Declaration, or the Articles of Incorporation, By-Laws, and Rules and Regulations, without the consent of the Owners, the Association, the Board of Directors or any Mortgagee, or any other Person, to:
- a. correct scrivener's errors, minor defects or omissions.
  - b. comply with the requirements of Indiana law.
  - c. comply with the requirements of any governmental agency, public authority, or title insurance company.
  - d. comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veterans Administration or any other governmental agency or any other public, quasi-public or private entity which performs (or may in the future perform) functions similar to those currently performed by each sell, insure or guarantee first mortgages covering Lots.
  - e. induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots.
  - f. add portions of the Development Area to the Submitted Parcel by Supplemental Amendment.

This subparagraph shall constitute an irrevocable special power of attorney to Declarant on behalf of all Owners, Mortgagees, and any and all other Persons having an interest of any kind in the Subdivision, for so long as Declarant and it shall become effective upon the recording of a copy thereof in the Office of the Recorder of Lake County, Indiana.

### ARTICLE III

#### GRAYTHORNE PROPERTY OWNERS ASSOCIATION, INC

**Section 3.01. In General.** There has been or will be created under the laws of the State of Indiana, a not-for-profit corporation to be known as Graythorne Property Owners Association, Inc. (the "Association").

**Section 3.02. Purpose.** The purpose of the Association is to provide for maintenance and operation of the private roads, other areas designated as Common Areas, areas owned by the Association, and in general to maintain and promote the desired character of Graythorne in accordance with these Covenants and Restrictions. The Association desires to maintain Graythorne in such a way that ensures the preservation of property values and to ensure that the highest quality environment is maintained throughout the entire community.



**Section 3.03. *The Board of Directors.*** The affairs of the Association shall be governed by a Board of Directors ("Board") as described in the By-Laws of the Association. The Declarant shall serve as the Board until such time as 2/3rds of the Lots in Graythorne have been sold or upon the Declarant's election to turn over control of the Association to the Owners, whichever occurs first (henceforth "Turnover Date"). The Board may from time to time appoint from among the Owners of Lots one or more committees to advise and assist it in the performance of its functions. After the Turnover Date, the Directors shall be Members of the Association; provided, however, no more than one person from the same household may serve on the Board at the same time. The initial Board of Directors after the Turnover Date shall be appointed by the Declarant. All subsequent Boards will be appointed in accordance with the process set forth in the By-Laws of the Association. The affairs of the Association shall be governed by a Board of Directors. Any action by the Association will refer to action by the majority of the Board of Directors of the Association unless otherwise specified.

**Section 3.04. *Liability.*** The Board, officers of the Association, Members of any committee thereof (including the Architectural Review Committee) and the employees, consultants and agents of any of them shall not be liable to the Owners or any other person for any mistake of judgment or for any acts or omissions of any nature whatsoever in their respective positions except for such acts or omissions found by a court of competent jurisdiction to constitute willful misfeasance, gross negligence or fraud. The Owners shall indemnify, hold harmless, protect and defend the foregoing parties against all claims, suits, losses, damages, costs and expenses, including without limitation, reasonable attorney's fees and amounts paid in reasonable settlement or compromise incurred in connection therewith. The burden of the foregoing indemnity shall be borne by the Owners at the time such loss, damage, cost or expense is incurred in the same proportion as Assessments are borne by the Owners as provided herein. To the extent possible, the Board's and Association's liability hereunder and the Owner's indemnification obligation shall be insured by means of appropriate contractual endorsements to the comprehensive general liability insurance policies held from time to time by the Association.

**Section 3.05. *Rights, Duties, Obligations, and Powers of the Association.*** In addition to the other obligations imposed hereunder, the Association, through the Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of all Association's affairs and, as provided by law, may do all acts and things as are not by this Declaration, Articles of Incorporations, or the By-Laws directed to be done and exercised exclusively by the Members. The Board of Directors shall have to power to and be responsible for the following, in way of explanation, but not limitation:

- (a) To own, maintain, and otherwise manage the Common Areas and all Improvements thereon and all other property to be owned by the Association or which the Association, pursuant to easement or license agreement, is permitted or required to maintain, or which the Association agrees to maintain, including any obligation or agreement including any which may be entered into with the County of Lake, the Town of Lowell, or any other governmental agency.
  - a. Common Areas include but are not limited to roads, ponds, community mailboxes, monuments, fencing, retaining walls, front entrances, and gates with adjacent sign age, terms, landscaping and hardscape.
  - b. The Board shall be responsible for providing for the operation, care, upkeep, and maintenance of any Common Area. This shall include designating, hiring, and dismissing the personnel or independent contractors necessary for the maintenance, operation, repair and replacement by the Association of its property and any Common Area, and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies, and material to be used by such personnel or independent contractors in the performance of their duties.
  - c. The Board shall have the power to make or contracting for the making of repairs, additions, and improvements to or alterations of any Common Area in accordance with the other provisions of this Declaration and the By-Laws and the Rules and Regulations after any damage or destruction by fire or other casualty.
  - d. The Board may make such improvements to the Common Areas and provide such other facilities and services as may be deemed desirous from time to time by the Board acting in accordance with its Articles of Incorporation, By-Laws, and Rules and Regulations

provided, however that any such action so authorized shall always be for the express purpose of keeping Graythorne a highly desirable residential community.

- (b) The Board shall have the duty and responsibility to provide the residents of Graythorne with those services otherwise provided by government agencies, including but not limited to the Lake County Highway Department. This duty and power shall be executed as set forth in the Articles of Incorporation, By-Laws and Rules and Regulations of the Association in accordance with these Covenants and Restrictions.
- a. In furtherance of this purpose the following declaration is made: The government agencies of the State of Indiana and of Lake County, Indiana, particularly the Lake County Highway Department, shall be freed from having to commit its resources to the following:
- (i). the Maintenance of streets and roads, including pot-hole repairs and snow and ice removal
  - (ii). the Maintenance of storm water run-off drainage fixtures and systems.
  - (iii). Autumn curbside leaf pick-up
  - (iv). Street lighting
  - (v). Other responsibilities typically deemed the responsibility of said governmental entities and agencies in cases when roads are dedicated to the public
- (c) The Board shall be responsible for preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the Common Expenses.
- (d) The Board shall be responsible for making Assessments in accordance with this Declaration to defray the Common Expenses, establishing the means and methods of collecting such Assessments, and establishing the period of the installment payments of the annual Assessment. Unless provided otherwise as determined by the Board of Directors, the annual Assessment against the proportionate share of the Common Expenses shall be payable in equal quarterly installments and each such installment to be due and payable in advance on the first day of each quarter for said quarter. Such Assessments shall raise funds necessary for the Association to properly fulfill its duties. The Board shall be responsible for collecting the Assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association.
- (e) The Board shall be responsible for opening bank accounts on behalf of the Association and designating the signatories required.
- (f) The Board shall be responsible for establishing and maintaining a Contingency and Replacement Reserve, as needed, in an amount to be determined by the Board.
- (g) The Board shall have the duty of obtaining and carrying comprehensive public liability insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof. The premiums for such insurance shall be common expenses payable out of the proceeds of the Assessments required by and collected in accordance with the provisions set forth in this Declaration.
- (h) The Board shall collect through Assessments the funds to pay annual taxes on all property owned by the Association.
- (i) The Board shall have the responsibility of keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, specifying the maintenance and repair expenses and any other expenses incurred. The said books and vouchers accrediting the entries thereupon shall be available for examination by the Owners and Mortgagees, their duly authorized agents, accountants, or attorneys during general business hours on working days at the

time and in a manner that shall be set and announced by the Board of Directors for the general knowledge of the Owners.

- (j) The Board shall have the right to adopt and amend additional reasonable Rules and Regulations in accordance with the process set forth in this Declaration and in the Articles of Incorporation and By-Laws of the Association. Rules and Regulations shall be consistent with the rights and duties established by this Declaration. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner agrees to adhere to the Covenants and Restrictions set forth in this Declaration as well as additional Rules and Regulations duly adopted by the Association. The Board shall also have the authority to impose fines for violations of said Rules and Regulations and said fines may be collected as provided for delinquent Assessments, including interest, attorney fees, and court costs.
- (k) The Board may acquire, own, lease, hold and dispose of tangible and intangible personal property.
- (l) The Board shall have the authority, but not the obligation, to exclusively contract for garbage, refuse collection, and recycling programs within Graythorne so as to limit the number of refuse and collection haulers within Graythorne.
- (m) The Board shall have the right to maintain, at the expense of the defaulting Owner, all drainage areas and facilities located on the Property in accordance with the reasonable and acceptable engineering requirements of the Association, the Town of Lowell, or County of Lake in the event that one or more Owners fail to do so;
- (n) The Board may at its option, complete the construction or maintenance of any lot, Dwelling, or other improvement, the construction of which is not being performed in a diligent, timely or workmanlike manner.
- (o) The Board shall, at its option, mow, care for, maintain and remove rubbish from any vacant or unimproved portions of the Property and to do any other things necessary or desirable in the judgment of the Board to keep any vacant or unimproved portions of the Property neat in appearance and in good order.
- (p) The Board shall have the authority, but not obligation, to specifically assess costs and expenses against Lots for the installation, maintenance, repair, or replacement of a perimeter wall as well as walking paths or sidewalks within easements depicted on the Subdivision Plat.
- (q) The Board shall provide to any prospective purchaser of a Lot, any Owner of a Lot, any first Mortgagee, and the holders, insurers, and guarantors of a first Mortgage or any Lot, current copies of the Declaration, the Articles of Incorporation, the By-Laws, Rules and Regulations, and will make available all other books, records, and financial statements of the Association.
- (r) The Board shall have the authority to appoint Members of the Architectural Review Committee after the expiration of the term of the first Committee appointed by the Declarant after the Declarant relinquishes control of the Committee.
- (s) The Board shall have the authority to appoint such committees as it may be from time to time find useful. All such committees shall serve at the pleasure of the Board of Directors and the chairperson of such committee shall be appointed by the Board.
- (t) The Board shall exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Members in this Declaration, the Articles of Incorporation, By-Laws, and Rules and Regulations.

**Section 3.06. Enforcement.** The Board shall have the right to impose sanctions and shall have the power to seek relief in any court for violations or to abate nuisances. The Board shall have the authority to enforce by legal means the provisions of these Covenants and Restrictions, the By-Laws and the Rules and Regulations adopted by it and bringing any proceedings which may be instituted on behalf of or



against the Owners concerning the Association. The Board shall have the right to modify, amend, and adopt additional Covenants and Restrictions.

## ARTICLE IV

### ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

**Section 4.01. Membership.** Every person who acquires a title (legal or equitable) to any Lot in the Subdivision shall be deemed to be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

- (a) There shall be no more than one (1) Member vote per Lot. In the event the Owner of a Lot is more than one (1) Person, votes and rights of use and enjoyment shall be as provided herein. The rights and privileges of membership, including the right to vote, may be exercised by the Member designated by the Lot Owners.
- (b) The foregoing provision permitting Owners of Lots within Graythorne to be Members of the Property Owners Association is not intended to apply to those persons who hold an interest in said Lot merely as security for the performance of an obligation to pay money, e.g., mortgagees and land contract vendors. However, if such a person should realize upon this security and become the real owner of a numbered Lot within the Subdivision, that person will then be subject to all the requirements and limitations imposed in these Restrictions on Owners of numbered Lots within the Subdivision and on Members of the Property Owners Association including those provisions with respect to rights or privileges and the payment of an annual charge.

**Section 4.02. Meetings.** Meetings shall be held in accordance with the provisions set forth in the By-Laws. There shall be an annual meeting of the Members of the Association. The first annual meeting of the Members of the Association shall not be held until such time as the Declarant appoints the first Board of Directors which shall take place after 2/3 of the Lots have been sold or at such earlier time as may be determined by Declarant. The first annual meeting shall be set by the Board of Directors so as to occur no later than ninety (90) days after the close of the Association's fiscal year. Subsequent annual meetings shall be held within thirty (30) days of the same day of the same month of each year thereafter at an hour set by the Board of Directors. Subject to the foregoing, the annual meeting of the Members shall be held at a date and time as set by the Board of Directors. Subject to the foregoing, the Members shall, at each annual meeting, elect the Board of Directors of the Association in accordance with the provisions of the By-Laws and transact such other business as may properly come before the meeting. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a majority of a quorum of the Board of Directors or upon a petition signed by at least ten percent (10%) of the total votes of the Association. The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as state in the notice.

**Section 4.03. Voting.** Members shall be entitled on all issues to one (1) vote for each Lot in which they hold an interest required for membership. When more than one (1) Person holds such interest in any Lot as the case may be, the vote for such Lot shall be exercised as those persons or entities themselves determine and advise the Secretary of the Association in writing prior to any meeting. In the absence of such advice, the Lot's vote shall be suspended in the event more than one (1) Person seeks to exercise it.

## ARTICLE V

### ASSESSMENTS

**Section 5.01. In General.** There are hereby created Assessments for Common Expenses authorized by the Board of Directors to be commenced at the time and in the manner as determined in the sole discretion of the Board of Directors. Each Owner, by taking title to a Lot, shall be deemed to have covenanted and agreed to pay to the Association annual Assessments or charges and special Assessments for capital improvements and unforeseen expenses, to be collected from time and time as hereinafter provided. The annual and special Assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a lien on the Lot against which each such Assessment is made. Furthermore,



each such Assessment, together with such interest, costs and reasonable attorneys' fees also shall be the obligation of the Owner or entity who holds a beneficial interest in such Lot.

- (a) Notwithstanding anything to the contrary in this Declaration, no Assessments shall be levied on a Lot unless and until the Declarant sells such Lot to an unrelated third party Owner; provided, however, that if the Declarant repurchases a Lot from a third party Owner the Declarant, as the succeeding Owner, shall be responsible for timely payment of ongoing Assessments related to such Lot.

**Section 5.02. Purpose of Assessments.** The Assessments levied by the Association shall be used for the purpose of promoting the health, safety, and welfare of the residents of Graythorne and in particular for the improvement and maintenance of the Property, services and facilities devoted to these purposes and related to the use and enjoyment of the Common Areas, and in fulfilling obligations of the Association. Such uses shall include, without limitation, the cost of all general real estate taxes, insurance, repair, replacement and maintenance and other charges required or permitted by this Declaration Of Covenants and Restrictions and the Articles of Incorporation, By-Laws, and Rules and Regulations of the Association and the cost of those items that the Board shall determine to be necessary or desirable to meet the purposes of the Association, including without limitation the establishment and maintenance of a Contingency and Replacement Reserve.

**Section 5.03. Computation of Assessment.** Unless otherwise established by the Board, the budget year for the Association shall be the calendar year, January 1 through December 31. At least sixty (60) days prior to the commencement of a budget year, and no less than thirty (30) days prior to the meeting at which the budget shall be presented to the Members, the Board shall prepare a budget covering the estimated Common Expenses for the ensuing budget year. Subject to the provisions herein, the budget may include a capital contribution establishing a reserve fund in accordance with a capital budget separately prepared and shall separately list general expenses. The Board shall cause a copy of the budget, and the amount of the Assessments to be levied against each Lot for the following budget year to be delivered to each Owner at least fifteen (15) days prior to the meeting. The budget must be approved by a majority of the Members in attendance in person, by proxy, or by other means allowed. In the absence of a required quorum as set forth in the By-Laws of the Association, the Board may adopt a budget for the ensuing year provided the amount of the proposed budget does not exceed the limit established by statute in the State of Indiana, currently one hundred and ten percent (110%) of the last approved annual budget. The budget and the Assessments shall become effective when adopted by the Board of Directors.

- (a) Notwithstanding the foregoing, in the event the Board fails for any reason so to determine the budget for the ensuing budget year, then and until such time as a budget shall have been determined as provided herein, the budget in effect for the then current year shall continue for the succeeding budget year.

**Section 5.04. Date of Commencement of Annual Assessments.** The annual Assessments provided for herein shall commence as to each Lot on the first day of each year and shall be prorated to the date of conveyance of title to an Owner of said Owner's Lot from the Declarant or its assignee. Assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual Assessment shall be adjusted according to the number of months then remaining in that budget year. In no event shall the Declarant be responsible or liable for Assessments as to any Lot during the period prior to the conveyance of title of any such Lot to a third-party Owner.

**Section 5.05. Contingency and Replacement Reserve.** The Board shall build up and maintain a reserve for the replacement of capital improvements, other authorized capital expenditures, and for unforeseen expenditures (the "Contingency and Replacement Reserve"). Capital improvements and unforeseen expenditures which may become necessary during the year shall be charged first against the Contingency and Replacement Reserve. Any expenditure from the Contingency and Replacement Reserve having a cost in excess of Fifty Thousand Dollars (\$50,000.00) shall require the prior approval of the Members holding two-thirds (2/3) of the votes of the Association. If the Contingency and Replacement Reserve proves inadequate for any reason, including nonpayment of any Owner's Assessment, the Board may, at any time, levy a special Assessment as set forth in Section 5.06.

**Section 5.06. Special Assessments.** In addition to the other Assessments authorized herein, the Association may levy a Special Assessment or Special Assessments in any year applicable to that year, provided, however, that such Special Assessment for any purpose other than as a sanction against an Owner shall have the vote or written assent of greater than fifty percent (50%) of the votes of a quorum of

the votes of Members entitled to vote at a meeting called for the purpose. The Association may also levy a Special Assessment as a sanction against any Member to reimburse the Association for costs incurred in bringing the Member and the Member's Lot into compliance with the provisions of the Declaration, the Amendments thereto, the Articles of Incorporation, the By-Laws, and the Rules and Regulations, which Special Assessment may be levied upon the vote of the Board. Lots shall be assessed for Special Assessment the same as for the annual Assessment. The Board shall serve notice of any such Special Assessment on all such Owners by a statement in writing giving the amount and reasons therefor, and such Special Assessment shall become effective and fully payable ten (10) days after the delivery or mailing of any such notice of Assessment.

**Section 5.07. Bookkeeping.** The Board shall keep full and correct books of account in chronological order of the receipts and expenditures pertaining to the Common Areas and any other property with respect to which it may have rights hereunder, specifying and itemizing the maintenance and repair expenses of such property and any other expenses so incurred. Such records and the vouchers authorizing the payments described therein shall be available for inspection by any Owner or any representative of an Owner duly authorized in writing, or any holder of a Mortgage, by appointment, at such reasonable time or times during normal business hours, and upon payment of reasonable fees which the Board may impose to cover administrative costs, when requested by an Owner or by the holder of a Mortgage. Upon five (5) days' prior written notice to the Board, any Owner shall be furnished a statement of his or her account, which statement shall set forth the amount of any unpaid Assessments or other charges due and owing from such Owner.

**Section 5.08. Unused Funds.** All funds collected hereunder shall be held and expended for the purposes designated herein, and are hereby held in trust for the benefit, use and account of all Owners. All funds not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories or investments as the Board may select.

**Section 5.09. Delinquency.** If the Assessment or charge is not paid within thirty (30) days after the due date, the Assessment shall be deemed delinquent and bear interest from and after the due date at the lesser of the rate of eighteen percent (18%) per annum or the highest rate allowed by law. The Association may file a Notice of Assessment Lien as against the Lot and Owner and record same with the County Recorder which may be foreclosed by an action brought name of the Association as in the case of foreclosure of mortgage liens against real estate. In any Court action to collect the delinquent Assessment and/or foreclose an Assessment Lien, the Association shall be entitled to recover accrued interest, costs, reasonable administrative fees, collection fees and attorney fees, in addition to the amount of any such delinquent Assessment.

- (a) The Directors of the Board and their successors in office, acting on behalf of the other Owners, shall have the power to bid in the interest so foreclosed at foreclosure sale, and to acquire and hold, lease, mortgage and convey any interest so acquired. The Association shall not be required to accept any Member who's membership is based upon ownership of a Lot for which delinquent Assessments, fees, costs, or charges remain outstanding, whether or not there is an enforceable lien against the Lot and whether or not said Assessments, fees, costs, or charges were incurred by the present Owner or a prior Owner.
- (b) When a notice of the lien has been recorded, such Assessment or Special Assessment shall constitute a perfected lien on each Lot prior and superior to all other liens, except:
- a. All taxes, bonds, Assessments, and other levies which by law would be superior thereto, and
  - b. the lien or charge of any first Mortgage of record (meaning any recorded Mortgage or deed of trust with first priority over other Mortgage or deeds of trust) made in good faith and for value. Such lien, when delinquent, may be enforced by suit, judgment and foreclosure. The Association, acting on behalf of the Owners, shall have the power to bid for the Lot at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same. During the period owned by the Association, following foreclosure:
    - (i) No right to vote shall be exercised on its behalf;
    - (ii) No Assessment shall be assessed or levied on it; and

(iii) Each other Lot shall be charged, in addition to its usual Assessment, its equal pro rata share of the Assessment that would have been charged such Lot had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid Assessments, and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

## ARTICLE VI

### ARCHITECTURAL REVIEW PROCESS

**Section 6.01. Objectives.** The Declarant and Association's objectives are to carry out the general purposes expressed in this Declaration and to ensure that any improvements or changes to a Lot will be of good and attractive design and will serve to preserve and enhance existing features of natural beauty; and to assure that materials and workmanship of all improvements are of high quality and comparable to other improvements in the area.

**Section 6.02. The Committee.** To achieve the Declarant and Association's objectives, there shall be a five (5) Member Architectural Review Committee with the power to administer this Declaration with regard to approving or disapproving those matters which are expressed herein to be within the jurisdiction of the Committee. The Declarant shall have to power to act solely as the Committee until the Declarant no longer holds title in any Lot in Graythorne or until the Declarant seeks to relinquish duties of the Committee. At that time, the Declarant shall appoint five (5) Members of the Association to serve as the Committee, all of whom shall be Owners and who may or may not be Directors of the Board. The regular term of office for each Member shall be one (1) year, coinciding with the fiscal year of the Association. After the expiration of the term of the Declarant appointed Committee, the power to appoint the Committee will belong to the Board. Any Member appointed by the Board may be removed with or without cause by the Board at any time by written notice to such appointee, and a successor appointed by the Board to fill such vacancy shall serve the remainder of the term of the former Member. The Committee shall elect a Chairman. Matters requiring approval of the Committee shall be submitted to its Chairman, or as the Committee otherwise designates.

**Section 6.03. Architectural Character Standards.** Standards and minimum requirements for architectural review shall be set forth in the Rules and Regulations of the Association. No residence shall be permitted to be constructed upon a Lot, nor shall the Committee be required to approve any construction which shall fail to comply with said minimum requirements. Said requirements are minimum standards for Phase One of Graythorne. The Association through the Board or the Declarant may adopt and enforce further standards for future phases of Graythorne.

**Section 6.04. Materials to be Submitted.** No improvements shall be constructed or placed on any Lot within Graythorne until final plans and specifications showing the site plan and all existing or proposed improvements have been submitted to, and approved in writing by the Committee or Declarant, as the case may be. An Owner may choose to submit a preliminary concept to the Committee, which concept, if approved, may be incorporated into final plans and specifications. If a preliminary concept is approved by the Committee, a final plan which is substantially similar to the preliminary concept plan shall be approved by the Committee as to those items submitted in the preliminary concept. The Owner shall request architectural review in writing, and shall furnish two (2) complete copies of each of the following:

- (a) The Lot site plan or plat prepared by a registered surveyor showing elevations, setbacks, erosion control, drainage and the location and dimensions of all proposed residences, Structures and accessory buildings.
- (b) Drawings and specifications of all proposed exterior building surfaces, showing elevations and including the color, quality and type of exterior construction materials.
- (c) Any additional information reasonably required for or requested by the Committee and any submittals as required by this Declaration and the Rules and Regulations of the Association which shall enable the Committee to determine the location, character, design, scale and appearance of the proposed improvements, including the square footage of any proposed improvement.
- (d) A statement specifying the builder of the improvements on the Lot.



**Section 6.05. Additional Submittals.** Any changes in approved plans and specifications, or subsequent alterations, additions and changes to any existing improvements that affects dwelling size, placement or external appearance must be similarly submitted to and approved by the Committee. Plans and specifications for the repair or reconstruction of improvements after casualty or condemnation must be similarly submitted to and approved by the Declarant or the Committee.

**Section 6.06. The Architectural Review Process.** The Owner shall submit to the Committee a complete package of submittals to be reviewed. The Committee shall consider any request which is submitted in accordance with the criterion set forth in this Declaration and the Rules and Regulations of the Association and the terms hereof on the basis of its conformity and harmony of external design and location in relation to surrounding structures, relation to topography, finished grade and elevation of the Lot being improved to that of neighboring sites, proper facing of main elevation with respect to nearby streets, adequacy of screening of mechanical, air conditioning and rooftop installations, and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration.

- (a) The Committee shall, within thirty (30) days after the submission of such complete plans and specifications, approve or disapprove any such request in writing.
- (b) The Committee shall disapprove preliminary concepts or plans and specifications submitted to it in the event the same are not in accordance with this Declaration and/or the Rules and Regulations or if the concept or final plans and specifications submitted are incomplete, and shall specify the reason for such disapproval.
- (c) The Committee may also refuse to grant approval when the proposed improvement, construction or modification, or any part thereof, would be contrary to the interests, welfare or rights of all or any part of the other Owners, all as determined in the sole discretion and opinion of the Committee.
- (d) In the event such plans and specifications are disapproved, the Committee shall specify the reasons therefor.
- (e) If the Committee fails to so approve or disapprove such request within thirty (30) days after such plans and specifications are submitted, such request shall be deemed approved.
- (f) The decision of the Committee shall be final, but the Committee shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.
- (g) The Committee shall retain one (1) full set of each Owner's final plans for its file. The Committee shall have the rights, in its sole discretion, to not approve the builder of the improvements on the Lot.

**Section 6.07. Completion of Improvements.** Upon obtaining the final plan approval of the Committee, the Owner shall, as soon as practicable, proceed diligently with the commencement and completion of all approved improvements.

**Section 6.08. Variances.** The Architectural Review Committee, by the written consent of two-thirds (2/3) of the Members thereof, or by the decision of Declarant as the case may be, is hereby authorized and empowered to grant reasonable variances from the provisions of this Declaration and the Rules and Regulations, or any portion hereof, in order to overcome practical difficulties and to prevent unnecessary hardship in the application of the provisions contained herein; provided, however, that variances shall not materially injure any other Lot or improvements within other Lot, and shall otherwise be subject to all applicable laws, ordinances, rules and regulations of any governmental agency or political subdivision having jurisdiction over the Lot. No variance granted pursuant to the authority granted herein shall constitute a waiver of any provision of this Declaration as applied to any other Person, Owner, Occupant or Lot.

**Section 6.09. Liability.** Neither the Committee, the Declarant, nor any Member, employee or agent thereof, shall be liable:

- (a) to any Owner, to anyone submitting plans for approval, or to any other Person, by reason of good faith exercise of judgment or mistake or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any such plans and specifications or for any other action in connection with its or their duties hereunder;
- (b) for any damage, loss or prejudice suffered or claimed by any Owner or contractor who submits such plans on account of any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, any structural or other defects in any work done according to such plans and specifications, the approval or disapproval of any plans, drawings and specifications, whether or not defective, the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications, and the development of any property within Graythorne.

Any Person submitting plans to the Committee or Declarant shall hold the Committee, Association and the Declarant harmless from all damage, loss or prejudice suffered or claimed by any third party, including attorney fees.



**Section 7.01. Restrictions on Use.** Restrictions on Use of Land within Graythorne are described in the Rules and Regulations of the Association.

**Section 8.01. Annexation.** In the event of annexation of Graythorne by any political entity, every Member shall abide by the results of the annexation vote and herein foregoes any rights to file any legal protest against the results of the annexation vote. Further, every Member herein agrees that the Association shall save harmless the Declarant and Lake County Government and its entities from involvement as a party to any lawsuit connected with annexation.

**Section 9.01. Enforcement of Terms.** Each Owner and Occupant of any Lot shall be governed by and shall comply with the terms of this Declaration and the Articles of Incorporation, By-Laws, and Rules and Regulations of the Association adopted pursuant thereto as they may be amended from time to time. The Declarant shall have no personal or other liability, obligation or responsibility to enforce the Declaration or any part thereof. A default or violation by an Owner or Occupant of any Lot shall entitle the Association or, in lieu thereof, any other Owner or Owners to the following remedies:

**Section 9.02. Authority and Administrative Enforcement and Procedures.**

- (a) *Authority.* Lots shall be used only for those uses and purposes set out in this Declaration, and subject to the Covenants and Restrictions set forth herein, in the By-Laws, and in the Rules and Regulations of the Association. To enforce said Covenants and Restrictions the Board of Directors shall have the power and authority to determine whether an Owner or Occupant has violated any provision of this Declaration, to suspend the Owner's right to vote, and to impose a reasonable Special Assessment against said Owner as a sanction along with the right to file a Lien for same.
- (b) *Procedure.* The Board of Directors shall not impose a Special Assessment as a sanction, suspend the right to vote, or infringe upon any other rights of an Owner or Occupant for any such violations unless and until the following procedure is followed:

- a. *Demand.* Written demand to cease and desist from an alleged violation shall be served upon the alleged violator specifying:
- (i) the alleged violation;
  - (ii) the action required to abate the violation;
  - (iii) a time period, not less than ten (10) days, during which the violation may be abated without further sanction.
- b. *Notice.* If the violation continues past the period allowed in the demand for abatement without sanction, the Association shall serve the violator with written notice of a hearing. The notice shall contain:
- (i) the nature of the alleged violation;
  - (ii) the time and place of the hearing, which time shall be not less than ten (10) days from the giving of the notice;
  - (iii) an invitation to attend the hearing and produce any statements, evidence and/or witnesses in his/her behalf; and
  - (iv) the proposed sanction to be imposed.
- c. *Hearing.* The hearing shall be held in executive session by the Board of Directors pursuant to the notice affording the violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice, the invitation to be heard, and the written result and statements of the sanction shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered by the officer or director who delivered such notice. The notice requirement shall be deemed satisfied if a violator appears at the meeting.
- (c) *Sanctions.* The Board of Directors' power and authority to impose sanctions shall be governed by the following provisions:
- a. All Special Assessments imposed upon a violator under this Article shall bear a reasonable relationship to the violation, considering all the circumstances which may include, but shall not be limited to, the following:
    - (i). The actual costs and expenses incurred by the Board of Directors and the individual directors in the exercise of the power and authority under this Article and in otherwise attempting to remedy the violation.
    - (ii). The amount of actual damage done to other Owners and Occupants and/or their Lots and any Structures thereon and/or to the Association arising out of the violation or the efforts to remedy the effects of same.
    - (iii). The amount which would be reasonably required to compensate the Association for the disruption of and inconvenience to, the community, the Association or any Member thereof, or Occupant of a Lot.
    - (iv). The extent to which the violation is or was flagrant, and the extent to which the violator cooperated or hindered in any effort to remedy the violation.
    - (v). All Special Assessments amounts imposed hereunder as a sanction shall be deemed to be a part of the Assessment attributable to the Lot owned or occupied by the violator, and shall be assessed against said Lot and its Owner as a Special Assessment to be due and payable on the date that the next Assessment payment would be due, and any such



Special Assessments which are not paid as of that date shall become a lien on such Lot, and shall be collected and enforced in the same manner as Assessments.

b. Nothing herein contained shall be construed as granting to the Board of Directors the power or authority to impose such a Special Assessment which is punitive in nature, or to suspend an Owner's right to vote, unless the Board of Directors finds, by specific special findings of fact in accordance with the foregoing procedure, that the violator's conduct was willful, malicious, oppressive and/or outrageous in nature. Said special findings of fact shall specifically set forth all facts and circumstances.

c. All other sanctions imposed shall be reasonably related to the violation found.

(d) *Final Decision.* The decision of the Board of Directors made in accordance with the foregoing procedures shall be final.

**Section 9.03. Legal Remedies.** In addition to the administrative remedies set forth herein, the legal remedies may include, without limiting the same, an action to recover sums due for damages, injunctive relief, foreclosure of lien, an action to enforce the sanctions imposed by administrative procedure, or any combination thereof. The prevailing party shall be entitled to recover the costs of any legal proceeding including reasonable attorneys' fees and costs.

**Section 9.04. No Waiver of Rights.** The failure of the Association or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Declaration, Articles of Incorporation, By-Laws and Rules and Regulations or by law shall not constitute a waiver of the right of the Association or Owner to enforce such right, provision, covenant or condition in the future.

**Section 9.05. No Election of Remedies.** All rights, remedies and privileges granted to the Association or any Owner pursuant to any terms, provisions, covenants or conditions of the Declaration, Articles of Incorporation, By-Laws and Rules and Regulations or by law shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges.

**Section 9.05. Schedule of Fines.** The Declarant and the Board shall have the right to establish a reasonable Schedule of Fines for violations and non-compliance with the provisions set forth in this Declaration and the By-Laws and Rules and Regulations of the Association. Said Schedule of Fines and reasonable process of collection shall be approved by the Declarant or the majority vote of the Board and published in the Rules and Regulations.

#### MAINTENANCE OF LAND AND RESPONSIBILITY OF PARTIES

**Section 10.01. Association's Responsibility.** The Association's responsibility for maintenance of the Submitted Parcel shall be limited to the maintenance, repair, and replacement of the Common Areas including but not limited to out lots, streets and roadways and their fixtures, community mailboxes, easements, front entrances as well as entrance gates, signage and surrounding hardscape and landscaping, all ponds not delineated as protected wetland, and any other Common Area or property owned by the Association and located in recorded plats.

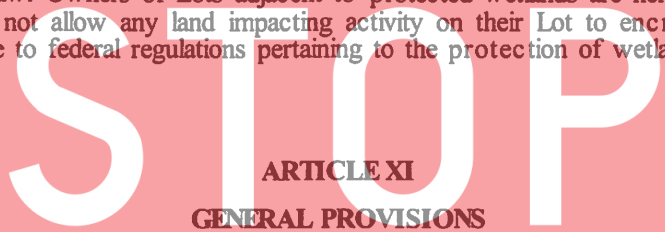
(a) *Retention and Detention Ponds:* The Declarant has conveyed or will convey to the Association the Common Area which contain retention and detention ponds located on the Real Estate. After the time that Declarant has deeded these parcels to the Association, the maintenance of said areas will be the responsibility of the Association. The Association, through the Board of Directors, will have the right and responsibility to maintain and improve upon such areas at their discretion as allowed by the processes set forth in this Declaration and in the By-Laws and Rules and Regulations of the Association.

By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner as a Member of the Association Covenants and agrees to these obligations and henceforth agrees to adhere to the

responsibilities of membership of the Association set forth in this Declaration as well as the By-Laws and Rules and Regulations of the Association. By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner understands and agrees that at no time are local or state governments or their agencies, specifically those of Lake County Indiana and Lowell, Indiana to be expected or obligated in any way to assume or intervene in the responsibilities hereby assigned to the Association nor will they be obligated to commit funds to maintenance, ownership, or responsibility of any land, property, or common area described in this Declaration to be the sole and perpetual responsibility of the Association alone. Taking title to a lot subject to the terms of this Declaration is to serve as a binding agreement that the Association as a whole, its Board of Directors, and its Members will at no point petition said governmental entities to intervene and exercise the Association's responsibilities.

**Section 10.02. Owner's Responsibility.** Except as provided in Section 8.01 hereof, all maintenance, repair and replacement of the residence, structures, driveway located on the Lot shall be sole responsibility of the Owner thereof who shall perform such maintenance in a manner that is consistent with the terms of this Declaration and its applicable Covenants as well as the By-Laws and Rules and Regulations of the Association. Each Owner shall, at Owner's sole cost and expense, maintain and repair Owner's residence and Structures keeping the same in a condition comparable to the condition of such residence and Structures at the time of its initial construction.

**Section 10.03. Designated and Protected Wetlands.** The Declarant has or will convey to a third-party Land Trust the deeds of the out lots which contain federally regulated and protected wetlands. Said Land Trust will henceforth retain sole ownership and rights to these protected areas. The Land Trust will be solely responsible for the maintenance and monitoring of the wetland areas, and as such, the Declarant, Owners of Lots, and the Association are removed from all responsibility of maintenance related to these designated areas. While Owners of Lots are encouraged to enjoy recreational access to these protected areas, any activity that may impact or affect wetlands in any way is strictly prohibited by this Declaration as well as by federal law. Owners of Lots adjacent to protected wetlands are hereby advised to exercise extreme caution as to not allow any land impacting activity on their Lot to encroach on the protected areas. Failure to adhere to federal regulations pertaining to the protection of wetlands may punishable by law.



**Section 11.01. Term.** The Covenants and Restrictions of this Declaration shall run with the land and shall be enforceable by the Association or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by at least seventy-five percent (75%) of the then Owners, has been recorded within the year preceding the beginning of each successive period often (10) years, agreeing to change said Covenants and Restrictions, in whole or in part, or to terminate the same.

**Section 11.02. Indemnification.** The Association shall indemnify every Officer and Director against any and all expenses, including attorney's fees, reasonably incurred by or imposed upon any Officer or Director in connection with any action suit or other proceeding (including settlement of any suit or proceeding, if approved by the then Board of Directors) to which he or she may be a party by reason of being or having been an Officer or Director. The Officers and Directors shall not be liable for any mistake of judgment, negligent or otherwise, or any other acts or omissions of any nature whatsoever as such Directors and Officers except for any acts or omissions found by a court to constitute criminal conduct, gross negligence or fraud. The Association shall indemnify and hold harmless each of the Directors and each of the Officers, his heirs, executors or administrators, against all contractual and other liabilities to others arising out of contracts made by or other acts of the Directors and Officers on behalf of the Owners or the Association, or arising out of their status as Directors or Officers, unless any such contract or act shall have been made criminally, fraudulently or with gross negligence. It is intended that the foregoing indemnification shall include an indemnification against all costs and expenses (including, but not limited to, attorneys' fees, amounts of judgments paid and amounts paid in settlement) actually and reasonably incurred in connection with the defense of any claim, action, suit or proceeding, whether civil, criminal, administrative or other, in which any such Director or Officer may be involved by virtue of such Person

being or having been such Director or Officer; provided, however, that such indemnity shall not be operative with respect to (a) any matter as to which such Person shall have been finally adjudged in such action, suit or proceeding to be liable for criminal conduct, gross negligence or fraud in the performance of his duties as such Director or Officer, or (b) any matter settled or compromised, unless, in the opinion of independent counsel selected by or in a manner determined by the Board of Directors, there is not reasonable grounds for such Person being adjudged liable for criminal conduct, gross negligence or fraud in the performance of his duties as such Director or Officer. Any right to indemnification provided for herein shall be not exclusive of any other rights to which any Officer or Director, or former Officer or Director, may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and Officers' and Directors' liability insurance to fund this obligation, if such insurance is reasonably available.

**Section 11.03. Self-Help.** In addition to any other remedies provided for herein, the Declarant 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 Declarant or its duly authorized agent may enter upon a Lot or any portion of the Subdivision (including Common Area) 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 Declarant shall give the violating Lot Owner five (5) days' written notice of its intent to exercise remedial activity (self-help). All costs of the Declarant's remedial activity (self-help), together with interest at the rate of twelve percent (12%) per annum, including attorneys' fees actually incurred shall be assessed against the violating Owner and shall be collected as provided for herein with the same authority and manner as in the collection of delinquent Assessments. No liability shall be assumed or imposed by the Declarant'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 Declarant 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.

**Section 11.04. Notices.** Any notices required to be sent to any Owner under any 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 Auditor's official property tax records at the time of such mailing.

**Section 11.05. Usage.** Whenever used the singular shall include the plural and singular, and the use of any gender shall include all genders. Words being capitalized or the lack of capitalization shall have no effect on the meaning of the word.

**Section 11.06. Effective Date.** This Declaration or any amendment hereto shall become effective upon its recordation in the Office of the Recorder of Lake County, Indiana.

**Section 11.07. Severability of Invalid or Unenforceable Provisions.** If any term, covenant, provision, phrase or other element of this Declaration, the Articles of Incorporation, the By-Laws or the Rules and Regulations is held to be invalid or unenforceable for any reason whatsoever, such holding shall not be deemed to affect, alter, modify or impair in any manner whatsoever any other term, covenant, provision, phrase or other element of this Declaration, the Articles of Incorporation, the By-Laws or the Rules and Regulations. If any part of this Declaration, or any term, Covenant, provision, phrase or other element, or the application thereof in any circumstances be judicially held in conflict with the laws of the State of Indiana, then the said laws shall be deemed controlling and the validity of the remainder of the Declaration and the application of any other term, Covenant, provision, phrase or other element in other circumstances shall not be affected thereby.

**Section 11.08. Binding Effect.** This Declaration shall be binding upon and inure to the benefit of each Owner, its successor, grantees, assigns and the legal representatives thereof.

**Section 11.09. Absence of Warranty.** The Declarant specifically disclaims any warranty or representation in connection with the Subdivision or Development Area or this Declaration except as specifically set forth herein; and no Person shall rely upon any warranty or representation not specifically set forth therein. Any estimates of Assessments are believed to be accurate, but no warranty or guaranty is made or intended, nor may one be relied upon.

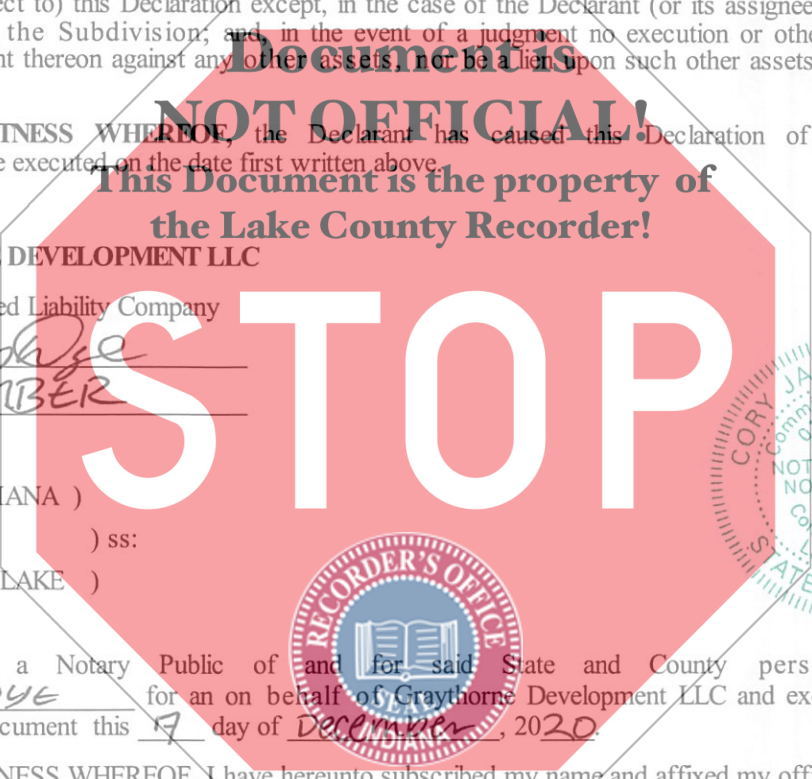


**Section 11.10. Right to Amend Declaration.** The Declarant shall have the right to amend the Declaration, and the Articles of Incorporation, By-Laws, and Rules and Regulations, in accordance with the rules set forth in this Declaration and the By-Laws of the Association.

**Section 11.11. Transfer of Rights.** Any or all of the special rights and obligations of the Declarant may be transferred to other Persons, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is a written instrument signed by the Declarant and duly recorded in the Office of the Recorder of Lake County, Indiana.

**Section 11.12. Limitation on Declarant's Liability.** Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot and becoming an Owner acknowledges and agrees, that neither Declarant (including without limitation any assignee of the interest of Declarant hereunder) nor any Members of Declarant (or any Member, partner, officer, director or shareholder in any such assignee) shall have any liability, personal or otherwise, to any Owner or other Person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration except, in the case of the Declarant (or its assignee), to the extent of its interest in the Subdivision, and, in the event of a judgment no execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets of the judgment debtor.

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



**GRAYTHORNE DEVELOPMENT LLC**

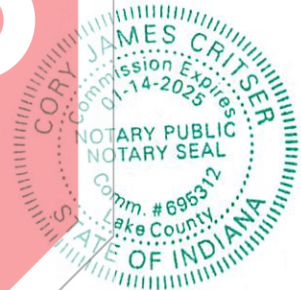
An Indiana Limited Liability Company

By: [Signature]  
Its: MEMBER

STATE OF INDIANA )

) ss:

COUNTY OF LAKE )



BEFORE ME, a Notary Public of and for said State and County personally appeared CASSDY DYE for an on behalf of Graythorne Development LLC and executed the above and foregoing document this 9 day of DECEMBER, 2020

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal.

[Signature]  
, Notary Public

My Commission Expires: 01-14-2025

County of Residence: PORTER

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. /s/ Gerald M. Bishop

This instrument prepared by: GERALD M. BISHOP, ESQ. (Indiana Attorney No. 2753-45)  
Gerald M. Bishop & Associates  
2115 West Lincoln Highway, Merrillville, IN 46410  
(219) 738-2400

CERTIFICATE OF PROOF

WITNESS to the signature (s) on the foregoing instrument to which this Proof is attached.

[Handwritten Signature]  
Witness Signature

William J. CRITSON  
Witness Printed Name

PROOF:

STATE OF INDIANA This Document is the property of the Lake County Recorder!

COUNTY OF LAKE

Before me a Notary Public in and for said County and State, Dated on 12/07/2020, personally appeared the above-named WITNESS to the foregoing instrument, who, being by me duly sworn, did depose and say that he/she knows WITNESS- WILLIAM J. CRITSON to be the individual(s) described in and who executed the foregoing instrument: that said WITNESS was present and saw said GRANTOR(S)- CASSIDY DUE - execute the same: and the said WITNESS at same time subscribed his/her name as a witness thereto

[Handwritten Signature]  
NOTARY PUBLIC SIGNATURE

GORDON M. BISHOP  
NOTARY PRINTED NAME

Notary Name exactly as Commission  
Notary Public- State of LAKE COUNTY RESIDENT  
Seal  
My Commission Expires: 8.24.21  
Commission No: 646577

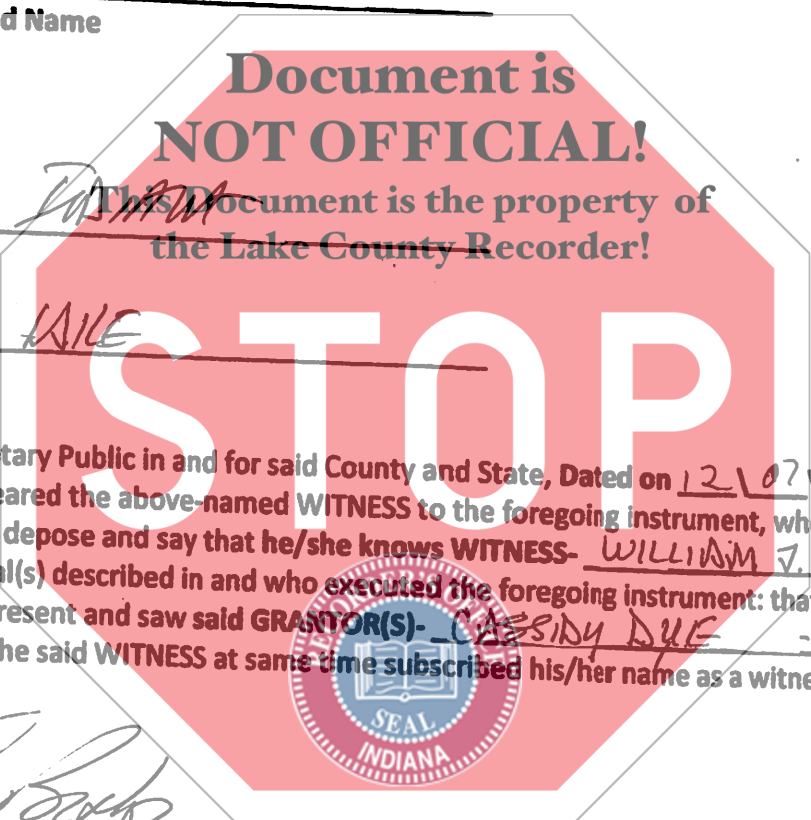


EXHIBIT A

LEGAL DESCRIPTION

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GRAYTHORNE, PHASE II UNIT A, LOTS 13, 33, 34, 35, 36, 37, 38, 50, 77, 78, 79, 80, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, AS PER PLAT THEROF RECORDED IN PLAT BOOK 113, PAGE 76, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA.

