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JOAN N. ROMERIL  
MARION COUNTY RECORDER

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
THE VILLAGES AT DRAKE LANDING, DRAKE LANDING SECTION 1**

**A SINGLE FAMILY RESIDENTIAL DEVELOPMENT  
IN WAYNE TOWNSHIP, MARION COUNTY, INDIANA**

The undersigned WEST 21ST STREET LLC, an Indiana Limited Liability Company (hereinafter referred to as "Developer"), as owner and developer of real property described in Exhibit A attached hereto and known as The Villages at Drake Landing, Drake Landing Section 1 (including lots 1 through 48 and referred to herein as the "Subdivision"), imposes the following plat restrictions and covenants on the Subdivision for the benefit of all present and future owners of any lot in the Subdivision.

**DECLARATIONS**

All lots within the Subdivision shall be subject to the following development standards, restrictions, covenants, conditions and assessments, which are for the benefit of all lot owners and occupants within the Subdivision and which shall run with the property and shall be binding on all owners and all persons claiming under them until December 31, 2004, at which time said covenants, conditions, restrictions and assessments shall be automatically extended for successive periods of ten (10) years, unless by a majority vote of the then owners of the lots in the Subdivision it is agreed to change said covenants, conditions, restrictions and assessments in whole or in part:

**Article 1. Use Restrictions**

1.01 Each lot within the Subdivision (hereinafter "Building Lot") shall be used for single-family residential purposes only. However, the Developer, its agents or assigns, may use the Building Lots for construction and sales purposes during any building and sales period.

1.02 No residence, building, shed, fence, flagpole, mailbox, light pole or fixture, swimming pool, tennis court, pavement, driveway, awning, wall or structure of any kind shall be erected, placed or altered on any Building Lot without first obtaining the written consent of the Architectural Control Committee subsequently described herein. All requests for written approvals from the Architectural Control Committee shall be accompanied by detailed plans and specifications for the proposed improvements showing, where applicable, the size, location, type, architectural design, spacing, quality, use,

construction materials, color scheme, grading plan and finish grade elevation for said improvements.

1.03 Each two (2) story single-family dwelling constructed on any Building Lot shall have a minimum of 1,400 square feet of living area and each single story single-family dwelling shall have a minimum living area of 1,200 square feet, exclusive of basements, open porches, garages and other unheated areas. Each dwelling shall have an attached garage with space for not less than two (2) automobiles.

1.04 All structures or improvements commenced by an owner of any Building Lot within the Subdivision must be completed within nine (9) months from the date of commencement.

1.05 Two coach lights with photo electric cells (or other darkness sensing technology) that automatically illuminate at darkness are to be installed on the garage at the time of construction of a dwelling thereon. The Building Lot owner shall maintain the lights in operating condition at all times.

1.06 No detached storage buildings shall be permitted on any building lot.

1.07 No towers of any description or satellite dish will be permitted on any Building Lot without the review and approval of the Architectural Control Committee. Said Committee may deny any such request in its sole and absolute discretion or may attach such conditions as it deems necessary or appropriate.

1.08 No residence shall have a sump pump which discharges directly into the street through a curb.

1.09 No building shall be located nearer to any street than the building setback line shown on the recorded plat of the Subdivision. The setback areas designated on the recorded plat shall be for lawn purposes only. This covenant shall not be construed to prevent the use of the setback areas for walks, drives, trees, shrubbery, flowers, or ornamental plants used for the purpose of beautification.

1.10 No structures or materials shall be placed or permitted within the utility or drainage easement areas as designated on the recorded plat of the Subdivision. Plantings within said utility or drainage easement areas are at the Building Lot owner's sole risk of loss if such plantings, as determined solely by the applicable utility company or the Architectural Control Committee, would damage or interfere with the installation or maintenance of utilities or would change or retard the flow of surface water from its proper course. Each Building Lot owner shall maintain such portion of any utility or drainage easement area as is located upon such Building Lot owner's lot.

1.11 No business activities of any kind shall be conducted on any Building Lot or open space in the Subdivision without the approval of the Homeowners' Association; provided, however, that the foregoing shall not apply to the business activities of Developer or the construction, sale or maintenance of Building Lots and residences by authorized builders or by Developer, its agents or assigns, during the construction and sales period.

1.12 No clothesline shall be located on any Building Lot except one removable, folding, umbrella-like clothesline. Folding umbrella-like clothesline shall be permitted in the rear patio area only. No laundry articles shall be left outdoors overnight or any time on Saturdays or Sundays.

1.13 No buses, campers, motor homes, trailers, boats, or other similar recreational vehicles shall be stored on any Building Lot unless housed within a garage building. All automobiles, trucks, motorcycles, vans, jet skis, snowmobiles or other such vehicles shall be housed within a garage building. No inoperable vehicles shall be stored on any Building Lot.

1.14 No exterior portion of any Building Lot shall be used as a dumping ground or storage area for rubbish, machinery, scrap, paper, glass or other such materials. Garbage or other waste shall be kept in trash containers. All containers used for the storage or disposal of trash or recyclable materials shall be kept in a clean and sanitary condition and screened from public view. Building materials to be used in the construction of approved structures may be stored on a Building Lot, provided such building materials are incorporated into the approved improvement within ninety (90) days after their delivery to such Building Lot.

1.15 No sod, dirt or gravel, other than incidental to the construction of an approved structure or the normal maintenance of lawn areas, shall be removed from any Building Lot without the written approval of the Architectural Control Committee.

1.16 No weeds, underbrush or unsightly growths or objects of any kind shall be permitted to remain on any Building Lot within the Subdivision. All lawn areas shall be maintained in a neat and orderly manner and shall be mowed on a regular basis. The Homeowners' Association may regulate and control the maintenance of lawn areas by publishing rules and regulations as it deems necessary from time to time.

1.17 No geothermal or solar heating system shall be installed on any Building Lot or on any dwelling thereon without the prior approval of all applicable agencies and the Architectural Control Committee.

1.18 No animals, livestock or poultry of any kind shall be raised, bred or kept on any Building Lot, except that dogs, cats or other usual household pets may be kept

on a Building Lot, so long as such pets are not kept, bred or maintained for any commercial purpose. No animal shall be permitted to run loose or become a nuisance to any owner of any Building Lot in the Subdivision. The Homeowners' Association may regulate and control the maintenance of such household pets by publishing such rules and regulations as it deems necessary from time to time.

1.19 No sign or billboard shall be erected or displayed on any Building Lot except (a) one (1) sign of no more than five (5) square feet advertising the property for sale; (b) signs used by Developer, its successors and/or assigns, to advertise lots or residences for sale during the construction and sales period; and (c) signs approved by the Architectural Control Committee.

1.20 All tanks for the storage of propane gas, fuel or oil shall be located beneath ground level, except that propane tanks for service to the entire Subdivision or, on a temporary basis, for construction of an approved structure may be located above ground.

1.21 No well for the production of gas, water or oil, whether intended for temporary or permanent purposes, shall be drilled or maintained on any Building Lot without the written consent of the Architectural Control Committee.

1.22 No chain link fence will be permitted on any Building Lot in the Subdivision.

1.23 No above ground swimming pools in place for more than forty-eight (48) consecutive hours will be permitted on any Building Lot in the Subdivision.

1.24 No private water supply systems or private sewage disposal systems shall be permitted on any Building Lot in the Subdivision.

1.25 Nothing shall be done, placed or stored on any Building Lot which may endanger the health or unreasonably disturb the occupants of the dwellings on neighboring Building Lots.

1.26 The owner of each Building Lot within the Subdivision, upon acquisition of title to such lot, shall automatically become a member of the Homeowners' Association created in accordance with Article 3.01 hereof. Such membership shall be an appurtenance to and shall not be separated from ownership of the Building Lot and such membership shall terminate upon the sale or other disposition by such member of such lot ownership.

1.27 Invalidation of any of these covenants and restrictions by judgment or court order shall in no way affect any other provision hereof, all of which shall remain in full force and effect.

It shall be lawful for the Developer, the City of Indianapolis, the Homeowners' Association or any person or persons owning any real property within the Subdivision to prosecute any proceedings at law or in equity against a person or persons violating or attempting to violate any covenant or restriction contained herein. The proceeding may seek to prevent such person or persons from violating or continuing to violate the restrictions or to recover damages for such violation together with the costs incurred in enforcement of the restrictions.

## **Article 2. Additional Drainage Easement Restrictions**

Drainage easements shown on the recorded plat of the Subdivision may include storm water detention or retention areas designed to direct, detain or retain water. The following covenants and restrictions are for the benefit of all Building Lot owners in the Subdivision and are to run with the land and shall be binding on all parties, on all owners, and all persons claiming under them forever, as follows:

2.01 No owner of any Building Lot in the Subdivision shall do or permit to be done any action or activity which would result in (a) the pollution of any retained water, (b) the diversion of water, (c) a change in the elevation of the water level, (d) silting or (e) an adverse effect on water quality, drainage or proper water management, or which would otherwise impair or interfere with the use of such areas for drainage and related purposes for the benefit of all Building Lot owners.

2.02 No boating, fishing, swimming, ice skating or other recreational activity shall be conducted in, on or above said drainage easement areas.

2.03 The Homeowners' Association shall have the right to establish rules regarding the use of any drainage easement areas, provided such rules are not in conflict with any other provision contained herein, and are reasonably established to protect the safety and welfare of the residents of the Subdivision and their guests, or are established to assure the continued service of the areas for the purposes for which they were designed.

2.04 The Developer, the City of Indianapolis, the Homeowners' Association or any person or persons owning any Building Lot within the Subdivision may prosecute proceedings at law or in equity against any person or persons violating or attempting to violate any of the above covenants and restrictions or seek restraining orders or other mandatory relief for the correction of any interference with or damage to the drainage and detention or retention system, and to recover compensation for any damages incurred



by the complaining party together with the costs incurred in enforcement of the restrictions.

### **Article 3. Homeowners' Association**

3.01 After the recording of this Declaration, Developer shall form and incorporate a Homeowners' Association (the "Association") to promote the common interest of all Building Lot owners, to handle maintenance of certain areas within the Subdivision as set forth below and to promote compliance with the covenants, conditions and use restrictions set forth in this Declaration. The Association shall be comprised of the owners of all the Building Lots in the Subdivision. Developer reserves the right to expand the membership and duties of the Association to include other sections of Drake Landing to be developed in the future. Attached hereto as Exhibit B is a description of real property which may be developed by Developer (the "Expansion Property"), the lot owners of which may, at the option of Developer, be required to become members of the Association. If the Developer elects to develop all or a portion of the Expansion Property and elects to include the owners of lots in such portion of the Expansion Property as members in the Association and to expand the Association's responsibilities to include similar duties for such portion of the Expansion Property, Developer may do so by filing an amendment to this Declaration to include such portion of the Expansion Property within ten (10) years from the date hereof, explicitly setting forth that the lot owners within such portion of the Expansion Property shall become members of the Association and detailing the additional rights and obligations of the Association.

3.02 The management and control of the affairs of the Association shall be vested in its board of directors. The board of directors shall be composed of three (3) members. The three (3) initial members of the board of directors shall be selected by Developer. The three (3) initial members of the board of directors shall serve until (a) that date which is ninety (90) days after 100% of all Building Lots within the Subdivision and 100% of all lots within the Expansion Property which have been developed and made a part of Drake Landing as set forth above in Article 3.01 have been sold, or (b) Developer elects to turn over control of the Association to the Building Lot owners, whichever shall first occur. Upon the incapacity, resignation or death of any initial director, a successor, who shall serve the remaining term of the departed director, shall be appointed by the remaining members of the board of directors within three (3) months after the incapacity, resignation or death of the departed director. Subsequent board members shall be elected by a majority of the Building Lot owners as more fully set forth in the Articles of Incorporation and By-Laws for the Association.

3.03 The plan for the overall development of The Villages at Drake Landing anticipates the construction of (i) three lakes along and to the north of Canvasback Drive and another lake along West 21st Street and (ii) two common areas along West 21st Street and another common area to the west of Canvasback Drive containing signage,

lighting, stone walls, sprinkler systems, landscaping and appurtenant amenities. None of these areas are part of Drake Landing Section 1 as shown on the recorded plat of the Subdivision. These lakes, common areas and appurtenant amenities are to be constructed for the benefit of the residents of Drake Landing as well as the residents of Drake Hill, an adjoining subdivision. The maintenance of these lakes and common areas will be undertaken by the Drake Hill homeowners association with participation in such maintenance cost shared by the Association. In order to provide maintenance of these lake and common areas, the Drake Hill homeowners association shall have the right to assess the Association up to one-half (1/2) of the total cost of such maintenance (hereinafter referred to as "Lake and Amenity Assessment"), subject, however, to the condition that such Lake and Amenity Assessment may not exceed an amount equal to \$100.00 per year per Building Lot in the Subdivision, which amount may be increased in proportion to any increase in the Consumer Price Index of the U.S. Bureau of Labor Statistics from the base period of December, 1994. The Drake Hill homeowners association shall provide copies of any maintenance agreements, proposals and/or invoices for services rendered in connection with such maintenance upon written request of the Association.

3.04 The Association, or its agents or assigns, shall have the right to enter onto any open space, public right-of-way or landscape easement area as shown on the recorded plat of the Subdivision, if any, or other easement area as it from time to time deems necessary for the purpose of maintaining the same. Such maintenance may include, but shall not be limited to:

- (a) regular mowing, trimming and fertilizing of grassy areas;
- (b) periodic mulching of flower beds within the Subdivision;
- (c) regular weeding of flower beds;
- (d) flower planting within the Subdivision;
- (e) maintenance of street lighting, if any, and associated electric service billings;
- (f) repair of any permanent signs;
- (g) repair of any stone wall, wing wall or fencing;
- (h) treatment of water in any detention or retention areas to limit algae and grassy growth; and

- (i) trimming, pruning, removal and replacement of trees and bushes, as necessary.

3.05 For the purpose of providing funds to carry out the responsibilities of the Association hereunder, the Association shall be empowered to levy, assess and collect from the owner of each and every Building Lot in the Subdivision, excepting those Building Lots owned by the Developer, an amount up to Two Hundred Dollars (\$200.00) per year, irrespective of whether the Subdivision has been completed. Provided, however, that such limit of Two Hundred Dollars (\$200.00) per Building Lot per year may be increased in proportion to any increase in the Consumer Price Index of the U.S. Bureau of Labor Statistics from the base period of December, 1994. Any fees assessed by the Association in excess of Two Hundred Dollars (\$200.00) per Building Lot per year, or its adjusted equivalent, must be approved by a majority of the Building Lot owners in the Subdivision. Said \$200 assessment fee or its adjusted equivalent, is inclusive of the \$100 Lake and Amenity Assessment referenced in Section 3.03 herein.

3.06 Any amount assessed or levied hereunder by the Association against a Building Lot owner shall become a lien on each Building Lot until paid and shall bear interest at the rate of ten percent (10%) per annum until paid, beginning thirty (30) days after the date of assessment. In the event any amount so assessed or levied is not paid when due and remains in arrears for more than sixty (60) days, the Association may file with the Marion County Recorder a Notice of Lien. The Notice of Lien shall contain a description of the Building Lot against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessment or assessments. The lien provided for herein shall remain valid for a period of five (5) years from the date a Notice of Lien is duly filed, unless sooner released or satisfied in the same manner provided for by law in the State of Indiana for the release and satisfaction of mortgages on real property or until discharged by the final judgment or order of the Court in an action brought to discharge the lien. The lien shall secure not only the amount of the unpaid assessments, but also the costs incurred in collection, including, but not limited to interest, attorney's fees and court costs. The lien of the assessment provided for herein shall be subject and subordinate to the lien of any duly executed mortgage on any Building Lot recorded prior to the recording of the Notice of Lien. The holder of any such mortgage which comes into possession of a Building Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure shall take the property free of claims for unpaid installments of assessments or charges against the Building Lot which become due and payable prior to the time such holder or purchaser takes title to the Building Lot.

3.07 Any and all of the rights, powers, duties and obligations assumed by, reserved to, created in or given to the Association may be exercised by Developer until such time as the Association is formed and control thereof transferred to the Building



Lot owners. At such time as control of the Association is transferred to the Building Lot owners, Developer may reserve the exclusive right to approve the plot plan, construction plans, color scheme and landscape plan associated with any structure on any Building Lot on which a dwelling unit has not yet been completed and occupied, so long as Developer clearly identifies the Building Lots for which it is retaining such right at the time of the turnover. Developer shall maintain said right of approval for each Building Lot until such time as a dwelling unit has been completed on that Building Lot and occupied by the homebuyer.

#### **Article 4. Architectural Control Committee**

An Architectural Control Committee (the "Committee") is hereby established as a standing committee of the Association to carry out the functions set forth for it in this Declaration. The Architectural Control Committee's procedures and duties shall be as follows:

4.01 The Committee shall be composed of three (3) members. The Developer shall appoint each of the three (3) initial members of the Committee.

4.02 The three (3) initial members of the Committee shall serve until such time as the Developer turns over control of the Homeowners' Association to the Building Lot owners, as set forth in Article 3.02 hereof. Any subsequent members shall be appointed by the Association and shall serve for terms of three (3) years, except that the first appointed members of the Committee shall serve for staggered terms of one (1), two (2) and three (3) years as directed by the board of directors of the Association. All members of said Committee shall serve until the expiration of their terms or until their incapacity, resignation or death. Upon the incapacity, resignation or death of a member of the Committee, a successor, who shall serve the remaining term of the departed Committee member, shall be appointed by the board of directors of the Association within three (3) months after the incapacity, death or resignation of the departed member.

4.03 The use restrictions require the submission of detailed plans and specifications to the Committee prior to the erection of, placement on, or alteration of any structure or improvement on any Building Lot. The intent is to achieve an architecturally harmonious, artistic and desirable residential subdivision. Therefore, while considering the approval or disapproval of any plans and specifications submitted, the Committee is directed to consider the appropriateness of the improvement contemplated in relation to the improvements on contiguous or adjacent lots, the artistic and architectural merits of the proposed improvement, the adaptability of the proposed improvement to the Building Lot on which it is proposed to be made, and such other matters as may be deemed by the Committee members to be in the interest and benefit of the owners of the Building Lots in the Subdivision as a whole.

4.04 To assist it in making its determinations, the Committee may require that any plans and specifications submitted to the Committee be prepared by a registered architect or civil engineer. The Committee shall also have the right to require any other reasonable data including, but not limited to, grading or elevation plans, material lists, landscape plans and color scheme designations.

4.05 The Committee's decisions shall be in writing and shall be binding upon all parties in interest. The Committee shall approve, disapprove or request additional information with respect to any request for approval within thirty (30) days after the request shall have been submitted to the Committee for approval. The failure of the Committee to approve, disapprove or request additional information within said time period shall be deemed an approval of any request.

4.06 If, in the opinion of the Committee, the enforcement of these restrictions would constitute a hardship due to the shape, dimension or topography of a particular Building Lot in the Subdivision, the Committee may permit a variation which will, in its judgment, be in keeping with the maintenance of the standards of the Subdivision.

#### **Article 5. Other Conditions**

5.01 All transfers and conveyances of each and every Building Lot in the Subdivision shall be made subject to these covenants and restrictions.

5.02 Any failure to enforce these restrictions shall not be deemed a waiver thereof or an acquiescence in, or consent to, any continuing, further or succeeding violation hereof.

5.03 If any covenant, condition or restriction hereinabove contained, or any portion thereof, is invalid, such invalidity shall in no way affect any other covenant, condition or restriction.

5.04 All costs of litigation and attorney's fees resulting from violation of this Declaration shall be the financial responsibility of the Building Lot owner or owners found to be in violation.

5.05 So long as Developer maintains control of the Association as set forth in Article 3 hereof, Developer reserves the right to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution (including, but not limited to, the U.S. Department of Housing and Urban Development, the U.S. Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar entity) or to the extent necessary to enable the Developer to meet any other reasonable need or requirement in order to complete the Subdivision, all without the

approval of the Building Lot owners, and each Building Lot owner, by the acceptance of a deed to a Building Lot within the Subdivision, consents to this reserved right.

5.06 Only the Building Lots contained in the Subdivision shall be subject to and bound by the restrictions, covenants and conditions set out in this Declaration and none of said provisions shall in any manner affect or be operative in respect to any other land of the owner or its successors or assigns.

IN WITNESS WHEREOF, said West 21st Street LLC has caused this instrument to be executed by its duly authorized representative this 12<sup>th</sup> day of July, 1995.

Signed and acknowledged  
in the presence of:

WEST 21ST STREET LLC, an Indiana  
limited liability company  
BY: REPUBLIC DEVELOPMENT  
CORPORATION, an Ohio corporation,  
managing member

By: Richard L. Arnos  
Richard L. Arnos  
Vice President

Cheryl L. Miller  
Cheryl L. Miller

STATE OF OHIO       )  
                                  ) SS:  
COUNTY OF LUCAS )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of July, 1995, by Richard L. Arnos, Vice President of REPUBLIC DEVELOPMENT CORPORATION, an Ohio corporation, managing member of WEST 21ST STREET LLC, an Indiana limited liability company, on behalf of the limited liability company.

WAYNE TOWNSHIP  
ASSESSOR

PLAT APPROVED

Date: July 29, 1995

By: Charles R. Spears

CHARLES R. SPEARS  
ASSESSOR

Cheryl L. Miller  
Notary Public



CHERYL L. MILLER  
Notary Public, State of Ohio  
Commission Expires 3-13-99

PREPARED BY RICHARD L. ARNOS,  
VICE PRESIDENT  
REPUBLIC DEVELOPMENT CORP.

559913 DEC 28 2004

DULY ENTERED FOR TAXATION  
SUBJECT TO FINAL ACCEPTANCE  
FOR TRANSFER

**AMENDMENT TO THE DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR THE VILLAGES AT DRAKE LANDING, DRAKE LANDING SECTION 1  
A SINGLE FAMILY RESIDENTIAL DEVELOPMENT  
IN WAYNE TOWNSHIP, MARION COUNTY INDIANA**

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR THE VILLAGES AT DRAKE LANDING, DRAKE LANDING SECTION 1 ("Amendment") is made as of this 7th day of December, 2004 by Drake Landing Homeowners Association, Inc., an Indiana nonprofit Corporation, witnesses as follows:

WHEREAS, the original Declaration of Covenants, Conditions and Restrictions for The Villages at Drake Landing, Drake Landing Section 1 a Single Family residential Development in Wayne Township, Marion County, Indiana was executed on July 12, 1995 by the Declarant, West 21<sup>st</sup> Street LLC, and recorded on July 26, 1995 as Instrument No. 1995-0089086 in the Office of the Recorder of Marion County, Indiana (the "Declaration"); and

WHEREAS, the Declaration permits the amendment of the Declaration by a majority of the then Owners as of December 31, 2004; and

WHEREAS, the Board of Directors has reviewed and affirmed the following Amendment to the Declaration of Covenants, Conditions and Restrictions for The Villages at Drake Landing, Drake Landing Section 1 was approved by a majority of the Owners;

NOW THEREFORE, pursuant to the foregoing, The Drake Landing Homeowners Association, Inc. hereby amends the Declaration as follows:

1. Article I, Section 1.06 is amended to read as follows:

1.06. No detached storage buildings shall be permitted on any building Lot, except for one (1) minibarn, approved pursuant to Section 1.02, that meets the following specifications:

The structure shall be placed as close as possible to the back property line, the furthest point back from the road front, except as provided in the municipal code for the City of Indianapolis. The structure shall not be allowed within the Drainage, Utility and Sewer Easements.

The structure, one (1) per lot, shall be no larger than 12 feet x 16 feet x 12 feet (length, width and height), shall be constructed of wood materials on a masonry type base and painted or otherwise covered with material the same color, or as near as possible to, the primary color of the home. The structure shall be covered with a shingled roof, with, or as near as possible to, the same color roofing as the home. There will be no roll-up or sliding metal doors permitted. The walls may not be of metal construction. No metal shed, metal barns or lean-

WAYNE TOWNSHIP  
ASSESSOR  
PLAT APPROVED  
Date: 12/28/04  
By: CHARLES R. SPEARS  
ASSESSOR



to structures will be permitted.

Any optional electrical service to the structure must meet the requirements of all national, state and local codes or ordinances governing such. The Association, through any lot improvement approvals granted by the Architectural Control Committee or Board Member, does not convey any approvals permits nor inspection of said electrical services, nor does it convey any approvals or permits as may be required by state or local codes or ordinances governing such.

Public Utilities and Drainage Easements shall remain as granted for the ingress and egress in, along and through the property so reserved. Nothing in the amendment negates the obligation of the property owner to maintain the property within the easement. Drainage easements shall be free of obstructions to allow the unimpeded flow of surface water. No permanent structures shall be erected or maintained on the easement.

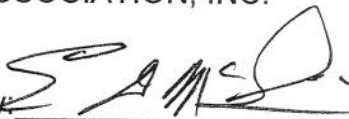
2. Article V, Section 5.05 is amended to read as follows:

5.05 (a) So long as Developer maintains control of the Association as set forth in Article 3 hereof, Developer reserves the right to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution (including, but not limited to, the U.S. Department of Housing and Urban Development, the U.S. veterans Administration, Federal National Mortgage association, Federal Home Loan Mortgage Corporation, or similar entity) or to the extent necessary to enable the Developer to meet any other reasonable need or requirement in order to complete the Subdivision, all without the approval of the Building Lot owners, and each Building Lot owner, by acceptance of a deed to a Building Lot within the Subdivision, consents to this reserved right.

(b) The provisions of this Declaration may be amended by an instrument in writing setting forth such amendment and approved by at least sixty-six and two-thirds percent (66 2/3 %) of all Building Lot owners, in person or by proxy, at a meeting called for that purpose. The change modification or rescission shall be effective upon recordation of such instrument in the office of the Recorder of Marion County, Indiana.

IN WITNESS WHEREOF, The Drake Landing Homeowners Association, Inc. has executed this Amendment as of the date first written above

THE DRAKE LANDING HOMEOWNERS  
ASSOCIATION, INC.

By 

President



**The following restrictions are those articles from the Declarations requiring approval from the Architectural Control Committee:**

1.02 No residence, building, shed, fence, flagpole, mailbox, light pole or fixture, swimming pool, tennis court, pavement, driveway, awning, wall or structure of any kind shall be erected, placed or altered on any Building Lot without first obtaining the written consent of the Architectural Control Committee subsequently described herein. All requests for written approvals from the Architectural Control Committee shall be accompanied by detailed plans and specifications for proposed improvements showing, where applicable, the size location, type, architectural design, spacing, quality, use, construction materials, color scheme, grading plan and finish grade elevation for improvements.

1.04 All structures or improvements commenced by an owner of any Building Lot within the Subdivision must be completed within nine (9) months from the date of commencement.

1.07 No towers of any description or satellite dish will be permitted on any Building Lot without the review and approval of the Architectural Control Committee. Said Committee may deny any such request in its sole and absolute discretion or may attach such conditions as it deems necessary or appropriate.

1.10 No structures or materials shall be placed or permitted within the utility or drainage easement areas as designated on the recorded plat of the Subdivision. Plantings within said utility or drainage easement areas are at the Building Lot owner's sole risk of loss if such planting, as determined solely by the applicable utility company or the Architectural Control Committee, would damage or interfere with the installation or maintenance of utilities or would change or retard the flow of surface water from its proper course. Each Building Lot owner shall maintain such portion of any utility or drainage easement area as is located upon such Building Lot owner's lot.

1.15 No sod, dirt or gravel, other than incidental to the construction of an approved structure or the normal maintenance of lawn areas, shall be removed from any Building Lot without the written approval of the Architectural Control Committee.

1.17 No geothermal or solar heating system shall be installed on any Building Lot or on any swelling thereon without the prior approval of all applicable agencies and the Architectural Control Committee.

1.19 No sign or billboard shall be erected or displayed on any Building Lot except (a) one (1) sign of no more than five (5) square feet advertising the property for sale; (b) signs used by Developer, its successors and/or assigns, to advertise lots or residences for sale during the construction and sales period; and (c) signs approved by the Architectural Control Committee.

1.21 No well for the production of gas, water or oil, whether intended for temporary or permanent purposes, shall be drilled or maintained on any Building Lot without the written consent of the Architectural Control Committee.

**The Purpose of the Architectural Control Committee:**

4.03 The use restrictions require the submission of detailed plans and specifications to the Committee prior to the erection of, placement on, or alteration of any structure or improvement on any Building Lot. The intent is to achieve an architecturally harmonious, artistic and desirable residential subdivision. Therefore, while considering the approval or disapproval of any plans and specifications submitted, the committee is directed to consider the appropriateness of the improvement contemplated in relation to the improvement on contiguous or adjacent lots, the artistic and architectural merits of the proposed improvement, the adaptability of the proposed improvement to the Building Lot on which it is proposed to be made, and such other matter as may be deemed by the Committee members to be in the interest and benefit of the owners of the Building Lots in the Subdivision as a whole.

**Submission Guidelines:**

4.04 To assist it in making its determinations, the Committee may require that any plans and specifications submitted to the Committee be prepared by a registered architect or civil engineer. The Committee shall also have the right to require any other reasonable data including, but not limited to, grading or elevation plans, material list, landscape plans and color scheme designs.

**Committee Decisions:**

4.05 The Committee's decisions shall be in writing and shall be binding upon all parties in interest. The Committee shall approve, disapprove or request additional information with respect to any request for approval within thirty (30) days after the request shall have been submitted to the Committee for approval. The failure of the Committee to approve, disapprove or request additional information within said time period shall be deemed an approval of any request.

4.06 If, in the opinion of the Committee, the enforcement of these restrictions would constitute a hardship due to the shape, dimension or topography of a particular Building Lot in the Subdivision, the Committee may permit a variation which will, in its judgment, be in keeping with the maintenance of the standards of the Subdivision.

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EXHIBIT I  
GUIDELINES FOR ARCHITECTURAL APPROVAL  
DRAKE LANDING SUBDIVISION

1. Any fence, deck, structure, driveway, swimming pool, tennis court, mailbox, light pole or fixture, landscaping or exterior modification to the original construction on any lot in Drake Landing must receive written approval from the Architectural Control Committee ("ACC") prior to construction. This includes changes in color.
2. All requests for improvement shall be made in writing and shall include:
  - Plot plan of lot showing location of improvement
  - Elevation - side view or picture of proposed improvement
  - Materials list
  - Finished color plan of improvement
3. Fences are to extend from the back corners of the home, unless specifically excepted by the ACC:
  - Examples of acceptable fence styles are split rail and picket.
  - Split rail fences are not to exceed 48" in height. Picket fences are not to exceed 42" in height. Spacing between pickets to be no less than one-half the width of the face of the pickets.
  - 6' shadow box fences may be approved if installed immediately around an in-ground pool or deck near the house. Privacy fences are not to be used for perimeter fencing.
  - 6' shadow box fencing may be erected on the rear property lines of Drake Landing Section 1 lots 1, 2, 3, 4, 5, 6, 7, 8 and 9. Fences along the other property lines of these lots shall meet the guidelines otherwise set forth herein.
  - Fences must be built of decay resistant wood materials. No chain link or metal fences are allowed.
  - Fences must be maintained at all times.
  - All fences require written ACC approval prior to construction.
4. No detached storage buildings are permitted.
5. Outdoor storage of recreational vehicles, boats, jet skis, trucks, cars, motorcycles, etc. is prohibited.
6. No metal or fiberglass awnings or patio covers are permitted.
7. No above ground swimming pools in place for more than forty-eight (48) consecutive hours are permitted.

THIS LIST IS ONLY A PARTIAL LIST OF REGULATIONS. THE COMPLETE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS IS AVAILABLE FOR EXAMINATION IN THE SALES OFFICE.

Amendment to Exhibit I Section 3: (Updated on 06/05/02)


Opening Statement:

The purpose of this amendment to Exhibit I Section III of The Villages of Drake Landing Guidelines is to demonstrate the dynamic nature of the Covenants, Bylaws and Guidelines that govern this Homeowners Association. Additionally, to further demonstrate that property rights are held in high regard by the Board. This also demonstrates the Board's eagerness to protect said rights and further enhances the property values of this community as stated in Article 4.03 of the Covenants.

In so striving to achieve the above, it is the Boards goal to avoid that the guidelines become a hindrance to this community. Thus, after a yea vote to proceed on this course of action during our last annual meeting the Board has directed the Architectural Control Committee to create an amendment to Exhibit I Section III. While also simultaneously striving to maintain the homogeneity, architectural harmony, and the desirability of this subdivision for the good fortune of all homeowners.

Shadowbox Fencing Guidelines:

Only the shadowbox style of six foot fencing shall be installed upon lots within Drake Landing, regardless of the presence of a pool or deck. Additional rules are as follows:

- 
1. Fence must be kept off property lines unless immediate homeowners agree in writing
  2. Fence must be maintained or removed within 60 days upon written notice
  3. The fence shall **not be a privacy fence style** (e.g.: board to board)
  4. Fence can be on rear of property line if lot is adjacent to boarder area as specified in Article 4.06 of the Covenants.
  5. Homeowner must have written consent of immediate surrounding neighbors if obstruction noted by ACC
  6. Metal or chain ~~frame~~ <sup>Chain Link</sup> fences as noted in Article 1.22 of the Covenants are not allowed.
  7. The fence MUST BE approved in writing by the ACC and any legal costs related to the lack of written approval must be born by the offending homeowner as noted in Article 4.05 of the Covenants
  8. Fence must be constructed of decay resistant materials

A shadowbox fence is not a closed board to board style of fencing or a 6 foot picket fence. Both of which would not be allowed within the scope of the guidelines.

Closing Statements:

All requests for above style of fence must have ACC approval and any cost incurred because of a lack of consideration will be collected from the offending homeowner. Prior approval must be sought in writing and the ACC must respond with a written document within 30 business days of the homeowners request. No faxes, verbal consent, or email is acceptable for the approval process.



Attest:

Danny S. Reynolds  
Secretary

STATE OF INDIANA     )  
                                      ) SS:  
COUNTY OF HAMILTON )

Before me, a Notary Public in and for said County and State, personally appeared Eric McGinnis, President of The Drake Landing Homeowners Association, Inc. and Danny Reynolds Secretary of The Drake Landing Homeowners Association, Inc. who acknowledged the execution of the foregoing Amendment to the Declaration of Covenants, Conditions and Restrictions for The Villages at Drake Landing, Drake Landing Section 1.

WITNESS my hand and notarial seal this 18 day of Dec., 2004.

My Commission expires:

3-5-2009

Douglas W. Nelson  
Notary Public

Douglas W. Nelson  
Printed

Residing in Marion  
County, Indiana

**DOUGLAS W. NELSON  
STATE OF INDIANA NOTARY PUBLIC  
RESIDENT OF MARION COUNTY  
MY COMMISSION EXPIRES 3/5/2009**

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This instrument prepared by Stephen R. Buschmann, Attorney at Law, Thrasher Buschmann Griffith & Voelkel, P.C. 151 N. Delaware Street, Suite 1900, Indianapolis, Indiana 46204